

**BUDGET PROCESS: TESTIMONY OF HON. CHARLES
W. STENHOLM, HON. BARBARA MIKULSKI, HON.
WILLIAM F. CLINGER, JR., HON. ROBERT E.
WISE, JR., HON. JIM KOLBE, HON. CHRISTO-
PHER COX, AND HON. WILLIAM ORTON**

HEARING
BEFORE THE
**JOINT COMMITTEE ON THE
ORGANIZATION OF CONGRESS**
ONE HUNDRED THIRD CONGRESS
FIRST SESSION

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MARCH 18 1993

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[Authorized by H. Con. Res. 192, 102d Congress]

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ORTON**

THURSDAY, MARCH 18, 1993

**UNITED STATES CONGRESS,
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS,
Washington, DC.**

The committee met, pursuant to notice, at 10:12 a.m. in room SC-5, The Capitol, Hon. David Dreier (vice-chairman of the committee) presiding.

Mr. DREIER. The Committee will come to order.

As we continue our series of hearings this morning on budget process reform, I am very pleased to welcome one of the outspoken advocates of budget process reform and one who has been trying diligently, as recently as an hour ago, to work within the present structure to try and bring about some major changes. So we are very pleased to hear from our colleague, the gentleman from Texas, Mr. Stenholm.

**OPENING STATEMENT OF HON. CHARLES W. STENHOLM, A U.S.
REPRESENTATIVE FROM THE STATE OF TEXAS**

Mr. STENHOLM. Thank you, Mr. Chairman, and Joint Committee Members. I appreciate very much this opportunity to appear before you today to discuss budget process reform. As a Member who has been interested in this topic essentially since first coming to Congress in 1979, I am delighted that you have taken up this subject and I commend you for holding this hearing. I hold great hope for the work of this joint committee in general, and I am grateful for the chance of working with the committee as you develop your proposals.

As a preface, I would say that there really are two sets of reasons we need to look at budget reform. The first set includes process reasons and deals with matters of efficiency and rationality. Our budget process is enormously confusing and disjointed. We have all seen the looks of frustration and confusion on our constituents' faces as we have tried to explain the nuances of outlays and budget authority, authorization and appropriations, discretionary and mandatory spending, budgets caps, 301(a) and 301(b) allocations, and on and on. Granted, much of that complexity is inevita-

ble when you are trying to run an operation the size of the Federal Government. But to the degree that we can make our budget process more efficient and more understandable, we should do so.

The second set of reasons for budget reform has to do with substantive effects rather than process. Specifically, I am talking about the dire necessity for deficit reduction. The Federal Government has run deficits for 24 years in a row and for 55 of the last 63 years. Obviously, no business could function with such a record. While the Federal Government has been able to avoid complete catastrophe, we are starting to feel the pinch of fewer and fewer dollars to expend on programs because we must spend them on interest payments. Clearly we need budget reform for deficit reduction reasons as well.

In my opinion, the best starting place for budget reform is a constitutional amendment requiring a balanced budget. Over the years, we have experienced a changing cast of characters, new statutes, summit agreements, and all sorts of remedies. In each case, we have failed to offer anything but false hopes. Given this long-term trend, a constitutional solution beyond procedural tinkering is required. By raising the threshold of difficulty for deficit spending, the President and the Congress would be forced to set priorities rather than continuing to postpone choices.

Already this year, approximately 250 Members of the House of Representatives have joined Representative Bob Smith and me and others in introducing H.J.Res. 103 which would require a balanced budget amendment. Last year, our amendment came within 9 votes of the two-thirds necessary for the House to pass a constitutional amendment. We are hopeful that the 103rd Congress will at last be the Congress to send this proposal to the States for ratification.

That being said, I quickly follow with the assertion that a constitutional amendment is not a panacea. It is a first, but critical, step. It must be followed by hard choices and priority making. It also must be followed with other procedures which will aid in the achievement of a balanced budget. That is what I would like to spend the rest of my time discussing.

I believe that you will hear later on from both Representative Tim Penny and Representative Bill Orton about their budget enforcement proposals. I have cosponsored both of the bills they have introduced and I stand with them in urging your consideration of their proposals.

Briefly, the Penny proposal essentially adopts the Panetta proposal of last year; Leon Panetta, now director of OMB. Through the establishment of deficit reduction targets, a board of estimates, a requirement of the President and the Congress to follow the targets, and tough enforcement mechanisms employing a potential sequestration, this package would do much to eliminate the Federal budget deficit.

Likewise, Mr. Orton's legislation would set up a process for ensuring that the deficit reduction we claim to achieve will actually occur.

The very first bill I introduced as a Member of Congress was my predecessor's, Omar Burleson, legislation requiring that all Federal programs be sunset, requiring that we review on a regular basis the programs which we are funding. In these days of having to

choose priorities, sunseting would go far in helping us to understand what our choices are. I understand when Mr. Natcher testified before you a few days ago he made the statement that no bill should ever be passed without a sunset provision. And that, in the case we can't go back and undue what we have done, I think it would certainly be in order that every program have a definite target date in which unless we acted concurring that a program needed to continue on, that it would, in fact, cease to be, instead of the process we now have in which everything goes on unless we find the courage to end it.

The next subject is modified line-item veto. I have introduced H.R. 1013 which essentially is the bill sponsored by our former colleague Tom Carper and which passed by the House last October 3rd by a vote of 312-97. This legislation would allow the President to send down a list of proposed rescissions within three days of signing an appropriations bill and require Congress to vote on a bill approving the rescissions within ten legislative days. If a simple majority of Congress voted against a presidential rescission, the funds would be released to be spent. The right of congressional majorities to control the purse would be preserved. This bill will increase the accountability to both branches and increase the honesty of the appropriations process without disturbing the constitutional balance of power.

I am attaching to my testimony a summary of this bill, as well as answers to some of the most commonly asked questions about this issue.

Truth-in-legislating. We have been embarrassed on many occasions by provisions in tax and spending bills that the public justifiably felt benefitted "special interest," privileged narrow interests, and other Members' special constituencies. In past years, I have introduced the Truth-in-Legislating Resolution in response to these concerns. This resolution would require committees to include in their reports the identity, the sponsor, and the cost of each provision of a bill which benefits ten or fewer beneficiaries.

Any Member who includes special benefits—and this has been one of our arguments on the Stimulus Package working its way through the Congress today—any Member who includes special benefits would have to be willing to experience any resulting publicity about those benefits. Beyond being a simple, good policy of honesty in legislating, it will very likely have the secondary effect of greatly reducing the number of this type of special interest provisions in legislation.

This legislation is not intended to forbid such provisions, but simply assure that the House is not afraid to shed some sunshine on the laws it passes. By assuring the public that we in the House have nothing to hide, this resolution will enhance the public's confidence in Congress.

Baseline Reform. The current services baseline creates a bias to increased spending. Eliminating the current services baseline would restore common sense and honesty to our budget process. We should recognize increases in spending for what they are, and not talk about cutting spending when what we really mean is that we are not increasing spending as much as anticipated.

In a recent town hall meeting, I was asked a question by a constituent. "Congressman, would you explain in plain english what you mean by a cut and what you mean by an increase?" If we have so complicated the process that the people do not understand—and it is very simple for me to explain. If you get \$100 this year and you get \$99 next year, that is a cut. If you get \$101, that's an increase. But we have allowed over a period of time the process of budget to suggest that unless every program gets cost-of-living adjustments that you have been cut—that we can no longer afford. The quicker we stop using a baseline, I think the more able and capable we will be of meeting some of our goals and some of the things that we all say that we are for.

Continuing Resolution Reform. In past years, we have passed massive omnibus continuing resolutions in which one huge bill made substantive changes in law and policy throughout the Federal Government without thorough debate and opportunity for review. While these problems have not surfaced in the last few years, there is nothing in the rules to prevent similar abuses from reoccurring. H.R. 1889 included provisions that would freeze continuing resolutions at current fiscal year's spending levels and would place strict limits on the inclusion of legislative language in the continuing resolution.

Limitation of waiving budget rules. We have waived the provisions of the Budget Act over 600 times since it was passed in 1974. The credibility of the budget process is undercut by the routine waivers of budget rules. Requiring that waivers of budget rules be approved by a three-fifths vote would ensure that the rules are waived only in extreme circumstances. Alternatively, I would suggest providing for separate votes on each waiver under the Budget Act. Either change would do much to restore credibility to the budget process.

Prohibit unfunded mandates. The list of unfunded mandates on State and local governments is extensive. State and local budgets are stretched beyond their means in order to comply with Federal mandates. Although the mandates are well-intentioned, we should not expect State and local governments to serve as a source of funding for Federal programs. Representative Gary Condit of California has introduced H.R. 140 to require that the Federal Government fully fund any mandates it places on State and local governments.

Now in summation, budget process reforms will not solve our budget problems by themselves. However, by increasing the credibility and the accountability of the budget process, the reforms we have outlined here we believe will be useful tools in dealing with our budget problems.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Stenholm is printed in the Appendix.]

Mr. DREIER. Thank you very much, Mr. Stenholm. That's very helpful testimony. I have to say that I am sorry that your Texas constituents don't understand the difference between a cut and an increase. My California constituents seem to have no difficulty with that, but I am happy that you have been able to provide them with the necessary explanation.

Mr. STENHOLM. You misunderstood me, Mr. Chairman. My constituents understood it real well. They weren't sure I did.

Mr. DREIER. Aha. Well, that's part of the problem that we have here, obviously.

Mr. EMERSON.

Mr. EMERSON. Thank you, Mr. Chairman.

Charlie, your statement was profound. I agree with you. I understand what you are saying. My problem is in understanding why so many other people don't understand the case that you have been trying to make for years. I think it is perfectly clear that we do need the balanced budget amendment as a forcing mechanism to compel us to make the hard choices that we of our free standing volition find difficult to make. Do you realistically think that the battle can be won as you are proposing it? I am with you, I agree, let's go do it. But we have tried and tried and failed and failed.

Mr. STENHOLM. I guess the answer to that is, yes, I do believe it can be done or otherwise we wouldn't continue to try. The moment I believe it can't be done is the time for me to retire and to let someone else fill the seat that I occupy at the privilege of the people of the 17th District of Texas. I think the people are beginning to wise up to us now. I think the people are seriously asking these questions and I think the normal election process is going to be helpful on this.

Mr. EMERSON. I think you are right and I think it may have to occur in the normal election process. It is a matter of great frustration, as you well know. We thought we had the votes last year to pass the balanced budget amendment and probably did if the vote had occurred on the day it was scheduled, but we managed to plug in a little intervening time there so some work could be done on some wavering members and the Wednesday on which we took the vote we failed. It is just a part of the process around here that those things happen. But I commend you for your statement and look forward to pursuing your recommendations as this committee moves into its deliberative stages.

Thank you, Mr. Chairman.

Mr. DREIER. Thank you very much, Mr. Emerson.

Mr. LUGAR.

Senator LUGAR. Thank you very much, Mr. Chairman.

Thank you, Charlie, for a great statement. I am curious as to the prospects for the legislation on the baseline that you mentioned. This is such a confusing aspect and already your conversation with our Chairman has illustrated this source of concern for our constituents that we understand this. I am not clear I suppose in my own mind of the history of how we ever got to a position in which the beginning point for our bills is the cost of living added to everything that the Government does but I am curious as to how it might be repealed. What prospects do you see for that? Where does it lie in the committee structure, hearings, or any progress?

Mr. STENHOLM. Senator, I serve on the House Budget Committee. I raised it in our own Budget Committee deliberations this year. Nobody knew the answer to that question. That's why I am bringing it to you and this committee this morning that this seems to be one of those illusive goals or illusive entities out there in which

nobody seems to want to claim paternal interest in but just seems to be there.

To me, and I think to most of us, we agree that really common sense would say that your budget ought to start out with how much you had, not what you are supposed to get under some theoretical formula. But I don't know the answer to that. That's what I thought you all were for. I'd just suggest it was a problem and you all go ahead and find the solution to that.

[Laughter.]

Senator LUGAR. I suppose, I'm just saying this out of curiosity, in the budget that we're now considering, the resolution on the floor of the House and the Senate today, as you suggested, if a program last year had a \$100 budget when we finally finished up, we're starting out this morning on the Floor of the Senate at \$103, more or less, as the so-called baseline and if we were to go to \$102, this would be interpreted by the press and the public and everyone else listening as a cut when, in fact, it is an increase. I think the public may understand this but maybe not so graphically as that, that the \$103 is supposed to be \$100, and \$102 is a cut as opposed to a plus \$2. That's what we have got to get at, and I appreciate very much your mentioning this as a potential recommendation of this committee for reform of both language and practice.

We had testimony the other day by Senator Kassebaum who is a member of this committee. She has offered legislation of which Senator Cohen and I and others in the Senate are co-sponsors for a revamping in essence of the budget, the authorization and appropriation procedures. Now the budget part of it, Senator Kassebaum provides for the chairmen and the ranking members of each of the standing committees to meet and to come up with the Budget Resolution. That would be the composition of the committee. During our hearing, Senator Kassebaum was asked whether everything is on the table, the discretionary programs and the entitlements.

I pose this question to you because you have mentioned the fact that we're not able to get our arms around the budget procedure in large part because maybe only 35 percent of what we're looking at is discretionary and the rest are entitlements. Senator Kassebaum admitted that perhaps the proper procedure for this new budget committee made up of chairmen and ranking members would be to take everything on every year, including the entitlements. That is the best idea I have heard thus far as to how we are to get to that problem because usually when we discuss this we condemn the whole ball of wax but, at the same time, no one is clear who will bell the cat, who will in fact talk about the entitlements.

Have you studied any scheme like the Kassebaum amendment or maybe a comparable one that you or others are wrestling with in the House, and can you offer any testimony on your opinions?

Mr. STENHOLM. Very much so. I am not totally familiar with Senator Kassebaum's bill but as you describe it, I find myself in substantial agreement. In fact, my suggestion within our Budget Committee work this year is that we ought to have frozen everything with the baseline recommendations that I've talked about. Every program. And immediately people say does that mean social security? Well, everything to me means everything. So you freeze everything and then you make conscientious judgments as to what you

shall increase and for the purpose of which you will increase it. If we could do that in the budget process, we would go a long way down the line in the process reform of being able to deal with the macro problems of our deficit.

In our House budget this year that we will vote on this afternoon, we have provided for the freezing of discretionary spending at 1993 levels, hard freeze now, on the bottom line for the next 5 years. If we are successful, and I believe that we will be and I would hope that this would be something that would come out of the conference between the House and the Senate, we say we will spend no more total dollars in 1998 than we spent in 1993. That accomplishes it, going through the back door to——

Senator LUGAR. So the baseline really is zero at that point.

Mr. STENHOLM. Is really zero on the bottom line.

Senator LUGAR. Yes.

Mr. STENHOLM. We hope that this has been a constructive way of achieving that which we have recommended to you. We will see how it survives as it works its way through the Senate, through the conference, and what we ultimately achieve this year. Perhaps this will give us some basis to work from. But I concur totally that we have to stop this business of putting anything off of the table if we are really going to be serious about it. I have found in my own experience in this that this is not nearly the political problem that it is made to be once you honestly look, in this case, if it is senior citizens or whoever it is in the eyes and talk about the problem and have it understood. It is not near the political problem that we make it out to be here inside the beltway.

Senator LUGAR. But just to underline your point. You would start at zero baseline, same dollars as last year, and then make a discretionary change for cost of living or whatever change you wanted to make for each of the entitlements.

Mr. STENHOLM. Absolutely. I support that.

Senator LUGAR. Thank you very much.

Mr. DREIER. Thank you very much, Senator.

Mr. ALLARD.

Mr. ALLARD. Thank you very much. I would like to welcome my colleague to this committee and let you know that I did appreciate your comments and look forward to what other ideas you may have to present as we go along with the deliberations.

One area, as you know, is I have been very interested in the line item veto. During the campaign, the President expressed an interest in supporting a line item veto. But I notice now that he says he supports a modified line item veto. Have you had some discussions with the President and is he talking about the same type of proposal as you have presented before this committee?

Mr. STENHOLM. That is certainly my understanding and that is why we have great hopes that we will try for the next 2 years the modified version. I have never supported line item veto as it is commonly proposed in granting constitutional authority of $\frac{1}{3}$ plus 1 to a President. I have worried in the same way that certain senators have worried about the balance of powers in that endeavor. But having also grown frustrated with the manner in which our process works around here, we started looking for a compromise and we believe that the proposal that will be before hopefully later

this month will meet that compromise. Let's at least try it for 2 years because we provide for sunseting it at the end of 2 years. If it works, I don't think we will have any problem continuing it; if it doesn't, we will clean it up and make it work. But it basically will say that to any unauthorized program the President can veto it and within ten days we must vote. If we don't vote in opposition to the President, the money is spent.

Mr. ALLARD. In 1974, if I remember correctly, that rescission power was taken away from the Executive with that Budget Act. I think we need to have something to give the Executive an opportunity to go in and look at pork barrel spending, if nothing else it might be described as procedural pork, where they didn't go through and get their hearings and it tends to benefit just one congressional district and it maybe doesn't have the national interest in mind. I think certainly that would help. Some 43 States do have a constitutional line item veto and I certainly think that we ought to look very seriously at it. I respect your opinion on that, we disagree on that, but I think you are moving in the right direction and I am glad to see you take the leadership on the modified line item veto and that you are discussing it with the President. I think we are going to have to have his support in order to get these types of things passed in the Congress.

Mr. STENHOLM. It is my understanding we do have the administration's support for this and, therefore, it is a reasonably good chance we're going to see this one tried. If it doesn't work as I envision it, perhaps I'll be joining you on your process in 2 years.

Mr. ALLARD. I would love to have you as part of my bill. Thank you.

Mr. DREIER. Thank you very much, Mr. Allard.

Mr. Cohen.

Senator COHEN. Thank you, Mr. Chairman.

Congressman Stenholm, let me congratulate you for the fine work you are doing on the House Budget Committee. What you have just said struck a note with me. I think we have all learned from George Orwell that the distortion of language is the precursor to a distortion of values; namely, if you repeat a phrase or a word or a thought often enough, even a false and misleading phrase or word, if you repeat it over and over again, eventually it is taken as truth. One of the things that we have here is words are said to be—I think it was Holmes who said “words are said to be the skin of a naked thought.” Unfortunately, the thoughts have been covered with a skin that no longer represents the true meaning of that thought. So we have to go through a molting process and start shedding some of the words and get back to basic truths.

I recently was asked by a national journalists about why Ross Perot remains as popular as he is. Usually, when you have an independent candidacy, that candidate who has lost tends to fade and disappear from the political scene. It seems to me that language is very important in Ross Perot's case in that he speaks a language that people understand, very straight forward. Maybe it comes from being in Texas, but he does speak to the average person and I think he tries to convey his thoughts in that fashion. There are some who might disagree even on this panel with what he has to say as to whether it is overly simplistic and doesn't take into ac-

count the complexities of political life; but nonetheless, I think he has a language which most people understand.

I have two questions. One, assuming that we do find a solution—you said that we are here to find a solution to how to deal with this baseline problem—but assuming that we do recommend a solution, from your experience on the House Budget Committee, what do you think its prospects are for being received well in that committee?

Mr. STENHOLM. Excellent. You mentioned Ross Perot and the phenomenon there. I have taken to using the Perot factor and it could just as well be said I think about individuals within each of our districts or each of our States. I think the people have now become more aware of the problems of the deficit and, as we have seen, the educational process has now moved into areas in which previously were taboo.

Again, I would point to a couple of bipartisan positive things that occurred in the House Budget Committee this year. We didn't have many things that were positive in terms of bipartisanship, this being the nature of this year and the beast and we all understand that, but we did begin to broach the so-called entitlement question. We did it in a couple of instances and the President I think deserves a tremendous amount of credit for doing it in his own budget in the proposal of the taxation of social security benefits for those in certain brackets, et cetera. I think those are the kind of small steps that we have to begin making. And when we make them, I would hope that we could refrain from partisan criticism of those who make those kind of decisions. Unfortunately, we still are not quite there yet, particularly in some of the so-called entitlement areas.

The simple answer to your question is I am very, very encouraged once we get through this first partisan round of battling that we have to go through that the prospects for some real meaningful bipartisan action on budget reform, which is truly the way it has to occur—just like the area of health care reform has to be bipartisan or it will not work. If we are going to solve our budget problems, it has got to be bipartisan and the prospects are good.

Senator COHEN. When Senator Kassebaum appeared before this committee recently she proposed her general simplification of the process; namely, to cut out one step, to merge the budget process by having this committee of leadership, ranking members and chairmen and women of the various committees plus an additional five members to account for the difference in the make up of the Congress itself on a partisan basis. Several members, I am sure at least 1 Senator, Senator Reid of Nevada, pointed out a study that was conducted many years ago. I had occasion to compare it to a certain culinary delicacy, nonetheless, I won't go into that now, but they pointed out a study was done back in the late 1800s, early 1900s that showed when you eliminate the appropriations committee you have some rather extravagant spending.

The question I have is, in your experience, are members who serve on authorizing committees as opposed to appropriating committees inherently more extravagant or wasteful than those who are appropriators? That is something of a rhetorical question because I think the answer is contained in the process that we have

itself. If you have authorizing committees, they tend to set the authorizing levels higher knowing that the appropriators are going to come in with something lower than that. If you eliminate this process by merging the two committee, appropriators and the authorizers, it seems to me that there is no argument to be made that individual members are inherently somehow more extravagant. I hope that we can move in the direction that Senator Kassebaum has recommended and I truly hope that Senator Reid's concerns and those echoed by Senator Byrd as well are not seen as obstacles that would frustrate that movement.

Mr. STENHOLM. I am familiar with what Senator Kassebaum has suggested. I am personally of the opinion and would have had this in my recommendations this morning if we had a little more time to do more than just think about this subject, but I serve on the Agriculture Committee and the Budget Committee and in the Budget Committee I am limited to serve there for 3 terms and then must get off. I think that is an excellent process. I think the same should be true particularly in the area of chairmanships.

I have recommended in the past and would I think answer your question here that there should be a limit as to the number of terms any individual member can serve as a chairman of a subcommittee or a full committee. I do not support term limitations. I think the people should retain that. But from the standpoint of process, I think that this could be helpful. I, for example, practiced what I preach this year and changed subcommittees. I believe that after 6 years you ought to move on to another endeavor. If not, you tend to get locked in to the same educational level for the last 6 years.

I do not concur though the idea that appropriators are more or less spendthrift than any of the rest of us. I don't concur to that. But I do concur that it is time to take a look at whether or not we need to continue all 3—the Agriculture Committee, the Budget Committee, and the Appropriations Committee. We are in the process of doing some in depth analysis since we are forced to under the budget process, and this is my subcommittee of oversight, as to the process of unauthorized research programs that come from the Appropriations Committee and how that is going to fit in this freeze that I mentioned earlier. Agriculture is not only going to take a freeze but a cut, therefore we are going to have to take a hard look at this and, hopefully working with the Appropriations Committee, we will be able to come up with a process whereby we can deal with the authorizing and the appropriating in a more explainable fashion.

Senator COHEN. I thank the Chair.

Mr. DREIER. Thank you very much.

Charlie, the culinary delicacy to which Senator Cohen was referring is oxtail soup. Rumor has it that he and Senator Reid will be providing oxtail soup at some point for members of this committee.

Senator Reid?

Senator COHEN. Lobster soup perhaps, but not oxtail soup.

[Laughter.]

Senator REID. I think that I have no questions today.

Mr. DREIER. Charlie, let me just touch on one particular item that is very near and dear to me, and that is this question of waiv-

ing budget rules. It seems to me you mentioned the 600 occasions that we have seen the Budget Act waived. While you seem to be reasonably sanguine that we're going to see some kind of reform, what kind of optimism do you have about the prospect of our recognizing the Budget Act when it comes to proceeding with the standard rules of the House?

Mr. STENHOLM. Again, Mr. Chairman, I sense within our own caucus a strong desire to begin addressing some of the perception problems as well as what some would call more reality problems. I sense it is there. Some accuse me of being the eternal optimist and I guess that is because in real life I am farmer, but I do not tend to believe that because we've always done it this way that there is no hope of change. And I certainly don't concur with some of the partisanship that is often used in this in suggesting that it is one party or the other involved in this.

I think perhaps another reason is the people are ready for change and when the people are ready for change, we, their representatives, will in fact make those changes.

Mr. DREIER. Great. Thank you very much. We appreciate your being here. Your testimony was very helpful and it very cogently explained many of the challenges that we're going to be facing as this committee deliberates in the coming months. Thank you very much.

We are very pleased now to welcome our good friend the Senator from Maryland, Ms. Mikulski.

Senator REID. Actually, Mr. Chairman, the reason I didn't ask questions is I could see Barbara giving us the eye and I wanted to speed things up.

[Laughter.]

Mr. DREIER. Thank you very much, Senator.
Senator Mikulski?

OPENING STATEMENT OF HON. BARBARA A. MIKULSKI, A U.S. SENATOR FROM THE STATE OF MARYLAND

Senator MIKULSKI. Thank you very much to the members of the committee for allowing me to testify. Also, my heartfelt thanks to the members of the committee. This is indeed an arduous task in which you are putting in many hours and for which only the road of reform will be filled with a lot of prickly decisions. So we thank you for your effort.

Today I come before the committee really to comment briefly on the need to reexamine the fragmented authorizing processes of three Federal agencies within my appropriations jurisdiction—the Federal Emergency Management Agency, EPA, and the National Science Foundation—and the impact that this has on appropriations. It in many way reflects some of the questions and conversation that you just had with Congressman Stenholm.

As a member of the Appropriations Committee, I chair the subcommittee for VA, HUD, and Independent Agencies. Historically, that subcommittee was to handle small, independent agencies. Many of them now have grown up to be cabinet agencies. VA and HUD have more responsibility for discretionary spending than any other subcommittee of Congress except the one on defense. We

oversee 25 different departments, agencies, or components of agencies totally \$85 billion.

And in terms of moving to the reform concept, Senator Kassebaum, my colleague, has proposed abolishing the appropriations committee and give annual spending to the authorizing committees. I oppose that approach and I believe that we can accomplish her same objectives, which I support, through selectively streamlining the authorizing process.

Let me tell you what my recommendations are in a nutshell. I believe that there should be one authorizing committee and one appropriations committee, one authorization for each major agency and one appropriations subcommittee linked to this. Without this framework, congressional oversight has become scattered and the potential for real problems develop very quickly. Let me give you examples.

Where there is one authorizing agency, we can work in appropriations on a formal and informal basis to make sure that we hold to core mission and get wise use of taxpayers' dollars. In my subcommittee, I deal with veterans which is the largest expenditure within my portfolio. We have one authorizer, appropriations subcommittee, and we can work in terms of the principals within the House and the Senate as well as within the committee staff. That would be true of HUD, that would be true of Space, and others.

But when we come to agencies like FEMA, EPA, and the National Science Foundation, let me share with you this. The Federal Emergency Management Agency now reports to ten different authorizing committees and subcommittees in the House and Senate, and EPA reports to 34 authorizing and 56 authorizing subcommittees. The result is poor policy, I believe excessive authorizing funding, competing priorities. Every subcommittee that authors a program believes its initiative should be the agency's top priority and authorizes it at big buck levels. When it comes then to me and Chairman Stokes in the House, prior to that it was Bob Traxler and Bill Green, we become the one stop shops for FEMA and EPA to do the oversight.

I recognize we have these problems in the Senate. In the House, I was an authorizer; I was on Energy and Commerce. I co-sponsored every clean thing that Waxman had, I was on Jim Florio's committee and we looked at everything that was toxic, and we served under our mentor John Dingell and we did oversight and investigation. Now what we find though as appropriators is we are dealing with these 56 different subcommittees, each adding to this. So what we see then is that someone will authorize clean air, someone wants to authorize resource recovery, someone is authorizing Superfund, and no one is looking at the totality and, therefore, it comes to us.

Where I truly believe the American people have been poorly served by this scattered, fragmented process is in the Federal Emergency Management Agency. What we have seen is that it has been in and of itself a disaster. There has been a disparity between what we spend on the Cold War and the risk-based strategies facing the United States of America. It has been filled with political appointees and, as you know, the response up until just the last few weeks has often been quite sluggish when we have had to deal

with earthquakes in California, L.A. riots, and the terrible situations in Florida.

We are working on a new authorizing framework. But even if we get a new authorizing framework, if I have got to work with DOD, Government Operations, Environment and Public Works, FEMA does not have a 1-stop shop doing its oversight. I believe that the responsibility of the appropriators is oversight in terms of fiscal responsibility. Because of the scattered approach, we become the oversight even in policy. So we become the de facto full committee authorizers on FEMA, EPA, and there are even some minor examples at the National Science Foundation.

In order to get FEMA fit for duty in the 21st century, I turned to the National Academy of Public Administration to ask them to do a report on coping with catastrophe. They are here today, they are going to leave these reports with you, but one of the things that they strongly recommend is a 1-stop shop for FEMA in authorizing and a 1-stop shop for FEMA in appropriating so we can make sure the American people are protected from catastrophe and then another catastrophe of unwise use of funding.

That in a nutshell is my testimony. I could elaborate on it, but I would really hope that, as you look at reform, we would then have the principle of one authorizing committee and one appropriating subcommittee devoted to a content area.

[The prepared statement of Ms. Mikulski is printed in the Appendix.]

Mr. DREIER. Thank you very much, Senator Mikulski. That is very helpful.

Chairman George Brown of California testified before us the other day and he raised a problem that we don't have in the House but you do have in the Senate. As you know, in the House the Appropriations Committee is considered an exclusive committee; members are not allowed to serve on any other committee if they sit on that committee.

Senator MIKULSKI. Yes, that's right.

Mr. DREIER. Yet, in the Senate, we have authorizers who are also appropriators. How do you propose that we deal with that challenge?

Senator MIKULSKI. I think the Senate and the institutions have to look at the number of committees and subcommittees we all are on. Congressman Dreier, in my first term in the United States Senate, I was on 3 committees and 14 subcommittees. Sir, I wish I was as thin as I was stretched running back and forth to all those committees.

[Laughter.]

Senator MIKULSKI. There is certainly within the Senate the fact that there are authorizers and appropriators and in some ways they chair the same committees. I do believe that the Senate should look at the number of committees and subcommittees we serve on and perhaps that can even be accomplished by reducing the number of subcommittees, as I know you are looking at.

Mr. DREIER. That is something that we are doing here. Senator Boren has regularly raised this issue. I think the average Senator serves on 13 or 14 subcommittees. But this challenge of dealing

with this situation is something that is obviously much different in the Senate than it is in the House.

Senator MIKULSKI. Yes. I also know the Ways and Means Committee is also an exclusive committee and its members don't serve, for example, on energy and commerce, both doing health or welfare reform or those things.

Mr. DREIER. Right. But I think the real question that had come forward is that we will have authorizers in the Senate who will basically ignore that process and go ahead and legislate in the appropriations committees where they serve, basically passing up the opportunity for authorizers in the House to look at major policy questions.

Senator MIKULSKI. I think that the appropriations process was used to legislate because of gridlock, Congressman Dreier. I believe that because of the gridlock that occurred, everyone knew that appropriations had to pass and, therefore, they sought those targets of opportunity. I think with the end of gridlock you will see less of that entrepreneurial amendments.

Mr. DREIER. Well, from my perspective, we don't want to jeopardize entrepreneurship at all, but—

Senator MIKULSKI. No. But I do believe in germaneness or one subject on a bill. I know it is controversial within my side, but even if it is not germaneness, at least maybe one subject limited to the bill. So if it is not precisely germane according to the Deschler's rules and all that, at least we would hold to one subject. For example, if it is going through agriculture, I could not offer an amendment to give us an NFL franchise in Baltimore and call it a new commodity, though that I would like to.

[Laughter.]

Mr. DREIER. Mr. Emerson?

Mr. EMERSON. Senator, you made a very candid and very thoughtful statement and I applaud you for it. It reflects great knowledge of the system which I think is testimony to your service in both the House and the Senate and the seriousness with which you undertake the tasks that come before you. In fact, your statement was so thorough and direct that you have obviated the need for me to ask certain questions that I was going to ask you.

But there is one question I want to focus on. David referred to the fact that Chairman Natcher testified before us last week and said he was generally committed to enforcing the prohibitions in the House on legislating in an appropriations bill and appropriating funds for unauthorized programs. But both of these practices have come in for very extensive criticism.

Senator MIKULSKI. Yes.

Mr. EMERSON. Is it in reality as much of a problem as it is portrayed as being, in your experienced view?

Senator MIKULSKI. The answer is, yes. I believe that the legislation on appropriations bills occurred—and I don't want to be repetitive—because of the collapse in some ways of the authorizing committees' ability to move a bill. On a whole other topic outside of my committee, as you know, the inability of the Foreign Relations Committees to move a foreign aid bill resulted only in the fact that Foreign Operations moved that bill and then we moved into really using that in some ways as an authorizing vehicle. When NIH was

not reauthorized or was vetoed, then the appropriations became the vehicle to move ahead. Also with where there was a consensus agenda, when the addition of the Office of Women's Health was not reauthorized, we did it as a line item in appropriations with the concurrence that this was an important national goal to be achieved but the process had collapsed.

So it is because at times the authorizing committees, for whatever reasons, do not move forward, then the appropriators are the vehicle. It is not only the vehicle, Congressman Emerson, of appropriators, but authorizers who are frustrated by the inability to move their legislation. Some of the same people who are critical tiptoe around to see me to see if we can't take care of them.

Mr. EMERSON. Thank you.

Mr. DREIER. Thank you very much, Mr. Emerson.

Since he has waited so patiently, I am now pleased to call on Senator Reid.

Senator REID. Thank you very much, Mr. Chairman.

Senator Mikulski, I don't often have the chance to ask you questions since you are usually on the same panel that I am on. But I want to take this opportunity to tell you and the people of Maryland really how fortunate they are to have you. What your testimony is about today is right to the heart of what this reorganization committee is about.

I am one of those who is chairman of a subcommittee that has jurisdiction over FEMA. I am one of more than a dozen subcommittees that that poor agency has to respond to. If we don't do something in this committee to address that problem, we are in big trouble. You are the first person that has appeared before this committee that has pointed out a literal problem. We talk about there being too many subcommittees, we have too much to do. But in your testimony, and I would ask, Mr. Chairman, unanimous consent that this full written statement of Senator Mikulski be made part of the record because it is extremely important.

Mr. DREIER. Without objection, so ordered.

Senator REID. You are the first one to point out in a literal sense what is wrong with many of the things we do. We have got to limit those subcommittees that have jurisdiction over FEMA. It is silly; they can't do their job because they are running up here all the time trying to respond to some subcommittee chairman that thinks he has the answer to all their problems. So your testimony is right on line.

How do you think we could do that? Do you think we could say, as they arbitrarily did in the House and I think it worked fine, that each committee can only have so many subcommittees? Or that an agency does not have to respond to any more than two subcommittees in the Senate and House, you pick which ones? I mean, how are we going to do this?

Senator MIKULSKI. Well, I truly believe that you can limit the numbers but one would be that the committee and the subcommittees really be clustered around a single topic or an area. For example, I think veterans is an example that was able to achieve that. You take an agency like FEMA, I don't think it should be in all of those different subcommittees. It really needs to go, for example, to Government Operations or to Public Works, whatever is the reau-

thorization. I would not want to see it under DOD and the military doesn't want it under DOD.

Senator REID. Senator Mikulski, I think one of the problems we have as a body is that we don't want to make any mistakes. What I am saying is we might have to be arbitrary in some of the things we do. It may not be perfectly right, but it would be a lot better than what we have now if we just said an agency like FEMA would report to Government Operations, period.

Senator MIKULSKI. Yes. And that might not be the best place but at least it would be a place. And FEMA or any other legislation, Senator Reid, as you know, comes up for authorization for every 3 years but in appropriations it comes up every year. That way, by the ongoing consultation between authorizer and appropriator, every year we can keep an eye on it and we would at least be talking to John Glenn or John Conyers or so on. I find it works very well even when—I'll come back to veterans—we know Sonny Montgomery, we talk to Sonny, and we even get into hand-to-hand combat with Sonny, but at least it is a 1-stop shop.

Senator REID. Senator Mikulski, I am leaving this particular topic of your statement not because it probably isn't one of the most important things we have talked about here in this committee, but because I want to talk about something else before my time expires.

In your statement, you acknowledge the fact that Senator Kassebaum's idea to do away with the appropriations committee probably isn't a very good idea. Those are my words, not yours. But one reason that I think that doing away with the appropriations committee is such a bad idea is we have authorizing committees which become because of something called an iron triangle, for lack of a better word, where you have a special interest group, you have the subcommittee or committee, and then you have the agency which has this relationship that is ongoing and very particular in nature. You, in appropriations, you have just told us you have such wide-ranging jurisdiction that you don't have the opportunity to become familiar with an agency like an authorizing committee which deals basically with one subject. I think you said, I don't remember exactly what your testimony was, but you deal with 25 different departments and—

Senator MIKULSKI. That's right. An example would be HUD and the CHUBs committee. Both Senator Riegle and Senator Sarbanes have devoted themselves to the field of knowing housing, know what the HUD reforms should be. They are the experts. We then fund those and have a way to interact with them in a way then that accomplishes the policy objectives. But then, again, they are looking at the totality.

Senator REID. And the appropriations process, my point is, is a more impersonal relationship than the authorizing committees. I think that is one reason that authorizing committees traditionally have appropriated more money than was available because of the relationship they have with the special interest groups and the agencies.

Senator MIKULSKI. I would tell all of my colleagues, I would hope the authorizers would do more oversight. They do leave their oversight responsibility to those of us in appropriations to really look

these things over. They pass legislation and then they wait for the 3 years to come up and that leaves us often to do the oversight and then that leads sometimes to the legislation on appropriations.

Senator REID. Mr. Chairman, I will end by saying the authorizing committees would be able to do more oversight if there weren't fifteen different subcommittees that were responsible for FEMA.

Senator MIKULSKI. And one of the things that we have not talked about, I would really think the committee should consider advocating the two year budget cycle. There are many things that I do in my subcommittee with colleagues, with small independent agencies, every year they come to see me and I hold my hearings with them on \$1 million for the Consumer Agency that publishes those pamphlets. There are some things that we could put on a two year budget. But those things that are major policy concerns, like in veterans with health insurance reform, we would want to look at it on an annual basis and work with you. But it is ridiculous sometimes to keep revisiting everybody on a year-by-year basis when it is the big tickets we should really be looking at and both of us then doing more oversight.

Mr. DREIER. Thank you very much, Senator.

Ms. HOLMES NORTON.

Ms. NORTON. Thank you very much, Mr. Vice Chairman.

I want to associate myself with Senator Reid's remarks about the value of this Senator. We in this region know that especially well, increasingly the country does too.

Senator Mikulski, you have gotten to the heart of a problem that has bewitched this committee. I am sorry I was not here to hear your own rendition of your statement, that's always worth the price of admission.

Senator MIKULSKI. You're not so bad yourself, Congresswoman.

[Laughter.]

Ms. NORTON. But I have read your statement. If, in fact, you did this during your remarks, then I will not ask it to be repeated. When Senator Kassebaum was here I indicated to her that I thought her proposal was indeed essentially a critique, a criticism of the appropriations process itself. Her response was, no, it really isn't; the problem is that we have this three-tiered system now and we need to get rid of this system. And of course she comes up with abolishing the appropriations committees.

It would help me in trying to evaluate her proposal if I could have a critique of her proposal, as it were. All you say in your testimony is that you oppose this approach.

Senator MIKULSKI. Let me give you concrete examples. Since the issue that I raised around EPA is that it is in 5 different committees and 56 different subcommittees, where then would you put the appropriations of that? The same with FEMA; where would you put the appropriations of FEMA? Would you then scatter that appropriation? Right now, we are the 1-stop shop for those two agencies and they are, therefore, being sure that national goals are being met and are making sure that the various categories are then funded.

Ms. NORTON. This combination of authorization and appropriations that is part of her proposal, you do not take to mean a one stop system? You don't believe that is a one stop system?

Senator MIKULSKI. No, I don't believe it is. Congresswoman, I don't believe that it is and that is why I have given these examples that if you simply abolished the appropriations and let them move to the authorizing, you have instances where it is so fragmented, where would the appropriations move and who would hold the 1-stop shop accountability. You see?

Ms. NORTON. Yes. Thank you very much.

Senator MIKULSKI. Also, what do authorizers do? Their job is to know the policy directives in depth. But they put them on continuing resolutions all the time, like the Resource Recovery Act which has not been reauthorized and which expired 2 years ago. If you didn't have appropriations staying the course, the whole resource recovery aspects of EPA would have not gone on.

Ms. NORTON. Thank you very much, Mr. Chairman.

Chairman BOREN [assuming Chair]. Senator Mikulski, I am so sorry we haven't had a chance to visit this morning.

[Laughter.]

Senator MIKULSKI. I'm sorry too, because I always learn a lot from it.

Chairman BOREN. But I have read your testimony and I think you are certainly right that we do need to have a better realignment in terms of the jurisdiction of our committees not only parallel House and Senate, but in terms of how we handle the agencies. It is just impossible to have this fragmented jurisdiction in terms of agencies reporting to so many. And as you say, the oversight then is not as effective as it would be either if one committee knows that it has oversight over a particular agency.

Do you think it would be useful for us as we do our research to not only run the nexus of how the House and Senate committees fit together and where there is jurisdictional overlap and where there may be jurisdictional overlap between committees as well, but to take agencies of the Federal Government, principal agencies, and to determine how many different committees those agencies report to?

Senator MIKULSKI. Senator Boren, I absolutely recommend that because I don't think what is occurring in my subcommittee—I just give that because I am so passionate, one, about EPA, and particularly passionate that we must deal with FEMA so that we get that ready for the 21st century and you can't do it scattered shot. But I think it is a situation that would run through all thirteen subcommittees in appropriations.

Chairman BOREN. On the question of how many committees and subcommittees we have, as you know it is almost hard to get a handle on that. We think we have 299, that's the latest best estimate of committees and subcommittees of the Senate and House put together. Back in 1947 when the Monroney-LaFollette committee finished its work, we had I believe 38. Subcommittees were very much a rarity at that time.

Do you think that we could do with a dramatic reduction in the numbers of committees and subcommittees overall as well as trying to streamline and rationalize the jurisdiction both between committees and between the executive agencies and committees?

Senator MIKULSKI. As you know, subcommittees never die, they are just added on to. The world has changed since 1947. We have a

larger, more diverse population, a more activist government that has undertaken far more responsibilities than it had then. But we still have the same committee structure that we have just added on to. I think we have to look at what does the 21st century Congress need to look at. And that might mean the elimination of subcommittees or merging them and so on.

Chairman BOREN. I know you talked about the fact, and I believe you said this in a response to Congressman Dreier, that in a perfect world it would be better not to have people serving on authorizing and appropriating committees, particularly in the same areas.

Senator MIKULSKI. I want to be clear about that. I talked about how the fact is that in the House their system has worked well. But in the Senate, it is not whether it is an authorizer or appropriator, it is that we are stretched so thin.

Chairman BOREN. We've done a study and we found that the average member of the Senate serves on 12 committees and subcommittees. We have some serving on as many as 23, I think that's the high water mark, it is really quite unbelievable.

Senator MIKULSKI. And then we're often called upon for party task forces.

Chairman BOREN. Task forces are not even counted in that number. So we're running from one meeting to another never able to concentrate to really take on one functional area, do it well, perform the oversight well, have responsibility delineated. I thought Senator Byrd very accurately said that we were leading fragmented fractionalized lives that really kept us from being efficient.

What do you think would be the ideal number, and I think as we go along, many of us feel that in terms of whether we ought to have 75 subcommittees and committees instead of 299, whatever that number is, that—

Senator MIKULSKI. Senator Boren, I have not really given that any thought.

Chairman BOREN. But how many committees and subcommittee do you think that the average senator, for example, could serve on well and do a good job? Obviously, twelve spreads us far too thin. In a way, if you cut down the number of committees and subcommittees on which we can serve, by each of us having the choose the areas most important to us we would begin to probably depopulate the less necessary committees. In other words, we would sort of look and see where the pattern was. If we were told we could only serve on say 2 major committees and 2 subcommittees of each one, then—

Senator MIKULSKI. Yes, and their situation is different in the House in serving on both Appropriations and Ways and Means which are exclusive in the House. But in terms of just time, I have not really given it thought. But I do believe that perhaps two committees, 8 subcommittees is a solid number. In the Senate, we are always going to be on more than one committee because of our numbers and I think we have benefitted from it.

The other thing is that when we serve a special chore, then we could perhaps rotate off in a no fault way the way they do in Budget to rotate back on, the way you served with distinction on Intelligence and I now serve on Ethics Committee so that I might roll off. I tried to cut down. I gave up my Small Business member-

ship not because I wasn't interested in small business, but so that I could be a better Senator on Appropriations and Labor/Human Resources, only then to be given the Ethics chore which I assumed and so there I am again.

Chairman BOREN. We have been thinking about coming up with some kind of rule. I did the same thing on Intelligence. I went off Small Business while I chaired the Intelligence Committee in an agreement that I would be able to go back on. In fact, I stayed off this year because I was working to chair this special joint committee. So if we have rules that allow then to go back on when our temporary assignments are over, I think that is a good suggestion.

We actually had a rule in the Senate that we were only supposed to serve on two major committees and that was all. Of course, it has been more honored in the breach than it has in following the rule, so we have all the waivers. But we have thought about approaching this and Senator Byrd, among others, said he thought we ought to be dramatic rather than just around the edges. That if we really came out and said no Senator can serve on more than X committees and subcommittees. And then perhaps we would say to standing committees once we have rationalized the jurisdiction, both the points you have made to us today on the executive branch jurisdiction—and it wouldn't be possible in the Appropriations Committee, you have to have a lot of subcommittees in Appropriations. But there are other committees of Congress. In Intelligence, we used to have 5 or 6 subcommittees and we just did away with all subcommittees; we didn't really need them in that committee. There are many other committees where you need 1 or 2 or 3, you don't need 9. And then just say you can only serve on so many and then stick to the rule and really enforce it.

Maybe require that to get waivers, you can't just get them from your caucus but you might have to get a super majority of the Senate to grant a waiver. That takes the pressure off the party leaders from sort of continuing to grant the waivers.

What would you also think about strict enforcement of the rule that we just really cannot have authorizing in an appropriations bill and that appropriations committees cannot go beyond the authorized limits in the authorization bill. Senator Byrd historically told us that was once the way it really was. Then he argued that the appropriations committees were an important check and balance, that they were usually even more frugal than the authorizing committees since they can only come in at or under the authorized level and that that really worked. He said the reason it stopped working is, one, that authorizing committees often didn't report out their bills, leaving the appropriations committees to do it. And that if we would really go back to a timetable, make the authorizing committees meet a timetable or run the risk they totally cede their jurisdiction if they don't do their jobs, then require that you really stick with this rule of coming in at or under the authorized figure and no other legislating, that this would really work better than it does. Do you think that is a possibility?

Senator MIKULSKI. I think the issue of a timetable is crucial to our discussion. When the issue authorizing on appropriations was raised by other of your colleagues on the committee, I raised the point that I believed the legislating on appropriations has come

about, one, because of gridlock which hopefully will come to an end, and that, two, where the authorizers do not report out their bills. One, for example, that I gave was that Foreign Relations has not been able to move a bill so it has come to Foreign Operations. Then there are others that were not reauthorized because of vetoes or whatever; NIH was an example there. Other languish, like the reauthorization of the Resource Recovery Act. So as the appropriator for EPA, I keep it going and our looking at it. So I truly believe that.

When I served in the House, Senator Boren, we had timetables that if your bill wasn't authorized by May 15, forget it. That was a strictly adhered rule for many years. You either did it or you didn't and everybody knew that. And if they knew you weren't going to go out of the gate but that there was no gate in appropriations, it did result in a timetable.

Chairman BOREN. Things really happened.

Senator MIKULSKI. Yes. So I truly believe that Senator Byrd has presented us with a navigational chart. But coming back again to the fragmentation of the process. The Budget Committee that I know you are looking at is in these functions. Those functions have no relationship to the authorizing-appropriating linkage. So we are always kind of mucking around. They say, "Oh, well, full funding for function 250." That is in the science and technology area. And then it is kind of scattered because for those of us who do a lot of that—

Chairman BOREN. That's a very good point.

Senator MIKULSKI. And I would hope that when you look at the budget process, you would also think in terms of alliance. If we are going to have a backbone, we need to have our disks in alignment.

Chairman BOREN. That's a very good point.

Senator MIKULSKI. If the Congress had invented the human body, we would not have a backbone. We would have this disk here and another one would be over there with the liver and somebody would get a waiver to have it with the kidney, then we would be like one great big pseudopod amoeba just going through life. But God gave us a backbone and he put us in alignment and that's what I think we ought to do in Congress. We need a backbone and we need a structural form process that manifests that. And I am ready to be a Senate chiropractor.

[Laughter.]

Chairman BOREN. I want to get one promise out of you, and that is we will not only have your suggestions, but that when we put this package together you will come help us sell it on the Senate Floor.

Senator MIKULSKI. Yes. But I leave Senator Byrd to be the Senate orthopedic surgeon.

[Laughter.]

Chairman BOREN. You make a good point the way these functions are put together. For example Agriculture Committee, we were looking at that and we have programs that really you could call farm programs—direct payments to farmers, the price support programs, so on; then we have what you would really call social programs—we have the WIC program, for example, that is in the Agriculture Committee, we have rural development which is really

more like things that might be in the Commerce Committee, and we have some small business related things.

Senator MIKULSKI. But you don't have rural health. So you have WIC but you don't have rural health.

Chairman BOREN. Exactly.

Senator MIKULSKI. And I am not advocating that you do.

Chairman BOREN. Then it was really interesting because we say, well, there are some increases in spending that come to the committee in this program, some cuts in this program, can the committee balance out, give the committee a certain amount of dollars to spend? They say, no, if you save money out of this hat or spend money out of this hat, it doesn't count against what you do in the other categories even though you are in the same committee. So this is what happens. The Agriculture Committee has no incentive to save money in certain programs because they will not get credit for the savings that they make in those programs, some other committee will. So what happens is you really distort the process by having this fragmented between committees because you don't give them incentive to save in certain programs. It just doesn't work for that reason; it really does inhibit us.

If you were sitting here and you could just sit down and write the reorganization plan for Congress, is the jurisdictional alignment and so on, the rationalization of the committee process, is that number one as far as you are concerned?

Senator MIKULSKI. I would say first of all that we have to have a rational structure, and that's why I talk about the alignment, to make wise use. The second thing would be the reduction in numbers, both in terms of the numbers that exist and then the numbers on which we could serve. And then the other is a change in culture where what we do needs to be viewed as what is in the national interest and not these—we have a great tendency to pursue trophies. Oh, I got \$50 million in a dropout and I can go home and brag about it in the city of Baltimore which has a terrible dropout problem. We have to begin to think about how to work institutionally and not as going around and viewing amendments to spend money or to cut money as trophies that we bag but rather that we are working together.

Chairman BOREN. One last question. Did you see Senator Kassebaum's proposal that the Budget Committee should really be a leadership committee. In essence, she proposed that instead of it being other people, that it be in essence the chairs and ranking members of the committees that will be responsible for carrying out the Budget Committee's instructions. How do you react to that thought? And with the idea that it would increase accountability, that was her argument anyway. That is separate and apart from her other proposals.

Senator MIKULSKI. Yes. I think it would be the biggest power struggle between the chieftains of the institution with staffs behind the scene in enormous jockeying around. I like the idea of a Budget Committee the way it is constructed, that members rotate on and off, they often garner an enormous tutorial, they then move off and move back to their committees, but that you set the limits that we talked about of compliance and reconciliation and that reconcilia-

tion doesn't become the mother of all dispute resolutions, time limits for authorizing, and so on.

Ms. NORTON. Mr. Chairman.

Chairman BOREN. Yes, Ms. Holmes Norton.

Ms. NORTON. Before Senator Mikulski leaves, I would like to ask her one question related to earlier testimony and not to her own but about which she may well have some opinion. You mentioned, Senator, that you had been shall we say drafted to go onto the Ethics Committee despite the fact that you had gotten off Small Business to lighten your load so you could concentrate on some of your other committees. We have had testimony here to the effect that the Senate and the House would profit by having an outside committee, for example, of former members who might rotate in a pool as opposed to using Members of Congress. Do you have any views on that?

Senator MIKULSKI. Congresswoman Norton, I would like to reserve comment on that. I have been asked to participate in a bipartisan committee in the Senate to look at exactly what should be the structural reforms of the Ethics Committee. I am going to suggest that, as the work of this committee that is looking at what ethic the Ethics Committee should be in the future, we consult with thinkers in the field of ethics and we look at what other western democracies do that share our values. What do the parliaments in Canada, Great Britain, Germany, and so on, how do they deal with these issues and then look at ourselves and so on so that we just don't come up with what seems to be solutions. We are going to be having by July 1 a series of recommendations on that to present to this Joint Committee.

Ms. NORTON. Thank you. Thank you, Mr. Chairman.

Senator REID. Mr. Chairman, just one last question before Senator Mikulski leaves. Your point regarding the so-called "super committee" or whatever it is called, to kind of boggle your mind, understand that committee would be composed of 39 Senators.

Senator MIKULSKI. And each with three staff.

Senator REID. At least.

Senator MIKULSKI. They would come in like the days of the old with royal robes. No, I just really think it would be excessive.

Chairman BOREN. Thank you very much, Senator Mikulski.

Senator MIKULSKI. Mr. Chairman, before I leave, I would like to leave for the committee, not ask that it be put in the record, leave it to your discretion, the National Academy of Public Administration's Report to Congress on how FEMA should be reconstructed. They talk very articulately about the committee structure. We would like to leave this with you and they are here.

Chairman BOREN. I appreciate that very much. We will receive that into our record. This is an excellent case study for us in terms of the general point that you have been making.

[The material is printed in the Appendix.]

Senator REID. Did they bring more than one copy?

Senator MIKULSKI. Yes, they have a bunch.

Chairman BOREN. Staff has the copies. Thank you very much.

Let me mention a situation in which we now find ourselves. We have Representative Clinger and Representative Wise here, if they would come on up. I am told there is a vote on in the House right

now. We could do this either way. We could have each of you give opening statements or one of you begin with an opening statement while the other one goes back to vote and take turns. What would be the best way?

Mr. WISE. Why doesn't Bill go ahead and I will be right back.

Chairman BOREN. Okay. Congressman Wise will go vote while Congressman Clinger is testifying to us. We appreciate your accommodating us.

Let me say Representative William Clinger of Pennsylvania has been a veteran Member of the House of Representatives since being first elected in 1978. We welcome you to the committee today and we are certainly appreciative of your coming. I know you have done a lot of thinking particularly about the capital budgeting question, and we appreciate of your coming to share those thoughts with us today. We apologize that we are running a bit behind schedule, but that is a good sign because it shows that our colleagues have so many good ideas to share with us. We welcome you and we would appreciate your statement at this time.

OPENING STATEMENT OF HON. WILLIAM F. CLINGER, JR., A U.S. REPRESENTATIVE FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. CLINGER. Mr. Chairman, I thank you very much for allowing me to come and testify along with Congressman Wise. We are joined in an effort to really bring attention to this question of how capital budgeting might help us both here in the Congress and also in the executive branch.

Before I talk about the capital budgeting itself, I would just point out I think what we are all pretty well agreed on that the present system of budgeting isn't working very well. There are a lot of problems with it. Every year we try to address it. We have had various efforts to reform the budget process to make it work better. I recall Graham-Latta 1, Graham-Latta 2, and various other efforts to reform the budget process. But the fact of the matter is we really have not done much about reducing the deficit. It continues to be a chronic ongoing systemic problem.

While I certainly support Congress' effort to control spending, I am always frustrated by the process we make of our budget decisions and the lack of information at our disposal. While the House is fashioning budget resolutions as we are now doing, there is a similar lack of information about the nature of our spending proposals. That is, to what degree we are investing in assets, consumables, operating expenses, and human enterprise programs? Current budget process makes no distinction.

Capital budgeting, Mr. Chairman, is a very simple tool, it is one that I have been talking about, Congressman Wise has been talking about for a long time. We have had trouble convincing our colleagues on the Budget Committee of the efficacy that this process might bring to the process. I must say I have had equal difficulty convincing any director of the Office of Management Budget that this was a concept worth pursuing. I suspect the reason for that is that it would in some regard limit the flexibility that you have in

budgeting. But I think that is why it is important that we look at it.

At the present time, we really have no idea how much we are borrowing to run the day-to-day operations of the Government, what it costs to operate the Government, as compared with those things in which we are investing—highways, bridges, airports, water and sewer systems. We make no differentiation. I think that has been a real problem for us. In that sense, we are at a disconnect with what goes on in most States. Other subsets of Government and almost every business recognizes that you have got to make some differentiation between what it costs to operate your business or your Government and what you are investing in the future. Capital budgeting makes that recognition.

I think there is more justification perhaps to be borrowing money for investments as compared with borrowing money for operations. So capital budgeting segregates spending into two discreet categories—spending and operating expenses and spending and assets. The latter activity is oftentimes referred to as investing because money spent to build a highway or a bridge really does have a longer term value than the year in which you spend the money.

I think that the main reason I would promote it and have promoted it over the years is because I really think it is a marvelous planning tool. It would also make the efforts of State and local Government in their capital budgeting exercise much more meaningful. Right now, the big question mark as they prepare their capital budget is what is the Federal Government going to do. We run hot and cold. We put a lot of money into infrastructure one year, next year we don't do anything; there is no predictability to the process.

What a capital budget would do if you project it out over one year, 5 years, 10 years, it gives you some sense of predictability and gives the State and local Governments some sense of predictability, what they are going to be able to count on in their own budgeting process as they go down the line.

Mr. Chairman, I have learned over the years that there are members who oppose capital budgeting and even more, I might say, who don't understand it. For those who oppose it, I honestly believe that their misgivings are not valid. I sincerely believe capital budgeting will vastly improve Congress' ability to shape and manage the Federal budget and to spend or cut in a more rational fashion than we presently do.

With that, Mr. Chairman, if you will excuse me, I will go vote.

Chairman BOREN. Thank you very much. We understand. We are glad to have your opening comments and we will look forward to your returning back with us.

In the meantime, we welcome back your colleague Congressman Bob Wise from West Virginia who now has just completed a decade of service I believe in the Congress. I might point out to the members of the committee that this is indeed a bipartisan proposal focusing on capital budgeting; Congressman Wise being a democrat, Congressman Clinger being a republican. I think these are the kinds of ways we have to approach these solutions, to try to work together and come up with a common solution that will improve

our budgeting process. We look forward to hearing your comments on the idea of a capital budget.

**OPENING STATEMENT OF HON. ROBERT E. WISE, JR., A U.S.
REPRESENTATIVE FROM THE STATE OF WEST VIRGINIA**

Mr. WISE. Thank you, Senator. I believe Bill has a term or two on me. I think Senator Reid and I came in at the same time and I think Bill was here at least one or two terms. He has been advocating this from the moment I came to the House. So I think it is a tribute to Bill and to a lot of others who have been advancing the cause of capital budgeting. I suspect our remarks are basically the same.

I would like to submit my prepared statement and summarize if I could.

What is concerning me in serving on the Budget Committee as well as Public Works is that we don't have a realistic way of accounting for what we are doing in this system. A dollar that is spent in foreign aid or a dollar that is spent in a veteran's check or a food stamp payment is the same as a dollar spent in highways, the same as a dollar spent in capital investment. Also, there is so much emphasis by both sides today on investment that it seems to me to only make sense to do that which every business does, almost every State and local Government.

The bill that I have introduced, Senator, and I would invite this committee to consider, follows the lines of Bill Clinger except I think you need to take a conservative approach to it. I think you need to look at physical infrastructure. You can begin talking about job training, you can begin talking about education, all of those would show a definite return and I don't dispute that, research and development, medical research, and so on. But we have to also recognize that you can soon wander off and things would come into that capital budget that perhaps are harder to define, harder to account for.

So to allay some of those concerns that people might have, I would suggest limiting it at least initially to physical infrastructure—roads, bridges, airports, telecommunications, highways, medical institutions, solid waste facilities, hazardous waste landfills—to those things that have a demonstrated life that are in many ways I guess you could say concrete.

We have been nibbling at the edges on capital budgeting for the last 30 years. The Congress has directed in the 1950s that there be investment information enclosed in budget submissions. In the 1980s in I believe Rule 6, it is now required to have a statement of what could be considered a capital budget but the reality is we don't actually have a capital budget account.

What I would suggest is a unified budget which has two budgets—an operating budget that has to be balanced; a capital budget meeting the definitions that are in the legislation. That capital budget the Government is permitted to borrow for and, once again, that is physical infrastructure.

I don't see how we are going to move ahead in this country, given the fact that public investment has decreased almost $\frac{1}{2}$ in relation to our gross domestic product in the last 30 years, I don't

see how we are going to move ahead if we don't realistically account for that which is invested.

I'll just leave those thoughts with you and ask for that consideration. I happen to think that in upcoming budget years being able to account honestly and accurately in what we are investing in ourselves is going to be crucial.

[The prepared statement of Mr. Wise is printed in the Appendix.]

Chairman BOREN. Thank you very much. I will await your colleague's return but we will go ahead with our questions now. I have been told also that Congressman Kolbe has a scheduling problem and we're going to let him make his opening comments to us when he joins us.

Mr. WISE. I think he is here.

Chairman BOREN. Oh, there he is. Would you mind if we allow Congressman Kolbe to make his opening comments and then we can question all three of you together.

Congressman Jim Kolbe is from the State of Arizona, was first elected in 1984 to the Congress, and serves on the Appropriations and Budget Committees. I believe you had the same experience that I had, that you served in the State legislature before coming to the Congress. We welcome you and would value your comments. I know you are going to focus mainly on Budget Act waivers. But given the problems we have with scheduling, I think it would be good to let you go ahead because I know you have to leave before noon.

OPENING STATEMENT OF HON. JIM KOLBE, A U.S. REPRESENTATIVE FROM THE STATE OF ARIZONA

Mr. KOLBE. Mr. Chairman, thank you very much. I really appreciate your courtesy in allowing this, and to my colleague and my friend from West Virginia in letting me get in here now. Perhaps we will have some time for questions. I have just a little bit of slack time.

You are right, having served in the legislature I think, as you know, is a good background for the kinds of things that go on here in this body and gives a perspective that can be very, very useful.

As you suggested, I did want to focus on the issue of the Congressional Budget Act of 1974. At the outset, I want to say that I really appreciate the time that you and members of this committee are spending on the issues here. I think it is extremely important that Congress go through this process. The interest that I have seen among my colleagues I think indicates how serious we are about this process of bringing some real reform to this body.

My concern today that I want to talk to you about is what I see as a pattern of disregard for the spending limits and the deadlines that are included in the Budget Act of 1974 and the increased use of waivers that are issued by the Rules Committee. Of course, I am talking about the House of Representatives here. Let me explain briefly.

As background, the Budget Act of 1974, which established the process that we use today, set forth certain requirements for action on budget legislation. These requirements establish conditions for the adoption of the budget resolution, provides for the timing of

congressional action on spending and revenue legislation, ensures that this action is supposed to be consistent with levels established in the budget resolution. The mechanism for enforcing these guidelines is what we would call a "point of order" that can be raised by Members if these requirements are not complied with, and actually it is the same mechanism in the Senate.

Unfortunately, the House has found a way to circumvent these budget enforcement requirements through the use of waivers. Waivers are found in rules that are used to bring a bill to the House floor for consideration. More and more we hear this phrase inserted in House rules; "all points of order against the Congressional Budget Act are waived". We hear that on authorizing as well as appropriation bills. I am a member of the Appropriations Committee and it disturbs me that the Appropriations Committee continues to do this on a consistent basis.

What that means when we waive that point of order, if a Member wants to object to a bill's consideration because it does violate the Congressional Budget Act, that Member can't do so because of the waiver. If a simple majority vote approves the rule that includes this waiver, there is no recourse to stop violations of the Budget Act.

What I would hope that this committee might consider, either now or through the later subcommittee or committee that will be on House Rules Reform, is that we make it more difficult to evade budget discipline by requiring a super majority or three-fifths vote for waiver approval rather than the existing simple majority approval.

Since 1985, the Senate has done just that. It has imposed a super majority vote requirement to waive Congressional Budget Act points of order upon itself and has actually toughened the budget enforcement by now requiring a three-fifths vote to appeal the ruling of the Chair on a point of order raised against the Budget Act. The House, I believe, should place similar kinds of procedural restraints upon itself.

Now each of our bodies of course has a constitutional right to adopt its own rules. The Senate has done that. I am suggesting that the House needs to show as much fiscal discipline by requiring that same three-fifths vote requirement on rules that waive Congressional Budget Act points of order.

I have a graph in my testimony which I think illustrates the very disturbing trend of the increased use of waivers. It can be argued that a super majority Budget Act waiver requirement may be obsolete because the Rules Committee has resorted to blanket waivers, waivers that cover a much broader scope. With a blanket waiver, they disregard more than just the Congressional Budget Act. And Mr. Chairman, this may be reason at a later date when we consider rules reform to look at whether what I am talking about is sufficient or whether we need something that is ever broader. But I will be happy to discuss that at that time.

But today I would ask for your consideration of this proposal to require a super majority vote to waive Congressional Budget Act points of order. If we are going to have any credibility at all in the budget process in this Congress of the United States, we have got to tell the American people that when we pass a budget resolution

we mean what it says and that we are not going to waive it every time we have an authorization and appropriation bill come to the floor of the House.

I thank you for the consideration of this idea, Mr. Chairman, and would be happy to respond to any questions.

[The prepared statement of Mr. Kolbe is printed in the Appendix.]

Chairman BOREN. Thank you very much. I might say, and I will defer of course to my House colleagues, that I am sure the House members of our Joint Committee will take a particular look at your proposal since it does relate to House rules and perhaps we can then end up with a parallel rule in this matter because it is a matter of great national interest. When we are talking about reform of the budget process, it seems to me having a parallel enforcement mechanism in the two houses is important.

I would point out that our rule in the Senate seems to be working. In 1986, we had 19 points of order raised on the floor and of those 11 were granted and 8 were rejected. In other words, the waivers were granted in more cases than not. In 1987, we had 23 points of order raised, 10 were granted and 13 waivers were rejected. In 1991, we had only 4 points of order and all the requests for waivers were rejected. So there is definitely a trend toward rejecting waivers and sustaining points of order. In fact, there seems to be a self-enforcement going on now so that the issue more rarely now has to come to the floor.

Mr. KOLBE. Mr. Chairman, I appreciate those statistics. I had not seen that from the Senate and I think that is very enlightening, particularly what appears to be, as you say, a self-enforcement that is going on, that they are not even bothering to try to get the waiver any longer. And I want to make it clear that I am not talking about a straight jacket that would make it impossible. There are times when a waiver should be granted. A three-fifths majority, however, is a reasonable number to do that and, as you say, I think it gives some real discipline to the budget process.

Chairman BOREN. Puts teeth into it. You have to have the whole body grant it and not any particular committee. As I say, now that people are finding it harder and harder to get them, they now are just honoring the process and not even making the attempt. So I think you raised a very interesting point and certainly one that I know our House colleagues on this panel will want to look at very seriously.

Congressman Clinger has rejoined us now. Let me ask both of you really two question. I understand what you are saying about the capital budgeting would help us really to focus on how Government spending is being made and what kinds of investments are being made, and whether or not we are paying adequate attention to infrastructure and making the long-term investments we should or whether we are sacrificing some of those investments to the short-term, immediate "operational" expenditures of Government as opposed to at least the physical investment necessity.

Do you think that this change, in addition to rationalizing the way we set our spending and giving us a better sense of where our money is going, would it have any bearing on whether or not we were better able to control the deficit or not? As you see it, would

it make it easier to hold the deficits down if we have capital budgeting as part of our process as opposed to just sort of uniform budgeting which mixes capital and operational together as we do now? Would it make it easier or harder in terms of our goal of getting the budget deficits down?

Then the second question would be an issue which very often we hear from our constituents, usually not so much in terms of what we have gotten for our own States and districts but on the issue of what other Congressmen and Senators have gotten for their States and districts which is termed to be pork barrel by the non-recipient State. Obviously, there have been some log rolling and back scratching that has gone on to the degree that we are approving a lot of projects that are really not necessary in the national interest and there is obviously some pork barreling to a significant degree.

Do you see the capital budgeting proposal affecting either one of these issues, either the pork barrel issue or the question of getting our budget deficits under control? I would just ask it to both of you.

Mr. CLINGER. Let me say that I think it would help in both regards. I think that one of the concerns I have seen over the years is this sort of feast or famine approach we have with our spending on infrastructure. We either are spending perhaps way too much or way too little, there is not any real evenness of the process. I think that, among other things, would help us if we have a dedicated flow and a predictable flow of money going out there. So to that extent I think it would help us in being able to bring down the deficit.

The other thing, you mentioned pork barreling and there is no question that that's the boogie man that we all deal with. I think capital budgeting would help address that because if you establish criteria for what your needs are, if you project out what should be the standards—what are our needs? We don't really know in many cases where are needs really lie. Should we be spending more on water and sewer now, less on highways? I think once we begin to get a capital budget where we really begin to focus in on what the needs are, it is going to discourage the old bulls, if you will, or the people who are able to tap into the process to get projects which maybe are not warranted or merited under the standards that you set forth. So I think it would really help in both regards.

Chairman BOREN. Both categories. Thank you.

Congressman Wise.

Mr. WISE. I think it would help to break the 2 up in both categories, Senator. I look at my State, and I suspect your State is the same, where we often have to submit a bond issue to the electorate under our Constitution for roads, for building new schools, and so on. With one notable exception, every issue has always been approved because the voters understand what it is going for, they can see something tangible coming out of it, they approve of it, and you have to make an accounting to them as to where the money goes because you know you are going to have to come back in a few more years with the next issue and ask them to approve that. So I think that the States perhaps show us that people want to be able to separate these items out.

In terms of reducing the deficit, you won't reduce the deficit but I think you will account for it more honestly. And also in tight

times you will have a better means of deciding where to focus our priorities. Do we really want to focus on entitlements or do we want to focus on building over the next decade so we have some streams of revenue coming in.

In terms of pork, the legislation I have introduced would require the Comptroller General to review and report on what is considered capital budgeting and what these projects are, to report on their value and their usefulness, and it would also direct the Comptroller General to evaluate projects in the same manner so to the extent that you can get a control on that.

But also capital budgeting falls I think if you can't demonstrate over several years a genuine return. If you can't come back and say that over the life of this project it is returning as much or more as you put into it, you are going to have a harder and harder time to justify it.

Chairman BOREN. Thank you very much. I think that's a very good point. I serve on the board of a private institution and I know one of the things that they have been tempted to do, and I suspect we are tempted to do it as a country, is if you have a tight problem in terms of your operational budget, one of the things you are tempted to do to try to keep it in balance or hold your deficit down is to no longer maintain your physical infrastructure, in this case it would be buildings and so on. So that you build up a huge backlog of unmet needs and your budget situation is worse than it really would appear because you are not keeping up your infrastructure and you are really passing on to the next generation, as we pass on the national debt, you are also passing on a backlog.

To have the capital budgeting there would perhaps put some discipline on the operating budget to keep it more in line not only so you can get it ultimately balanced, but so that you can do it in a way that does not fail to take into account the long-term capital needs as well. So I think you both made an excellent point.

Senator Reid.

Senator REID. I have said on a number of occasions that we hear so many people from the States talking about balanced budgets that they have; they don't have balanced budgets. We have governors say, "I can't understand why they can't do it back there, we balance ours." Well we could do a much better job paper balancing if we took all of our capital expenditures off budget like they do. I think that this is really an interesting idea and I am sorry that I didn't know that you two were pushing this before. I think it is an idea that we should strongly consider. My experience in State government was one where I better understood the money process because it was easier to understand. As you Congressman Wise pointed out, we need to build some schools, let the people decide if they want those schools built. You are right, most all the time they are willing to do that because they see what they get for their money.

So I don't have any questions to ask either of you. I am glad this is a bipartisan effort. I think it is something that we should all strive toward, and I would be happy to assist in any way that I can.

Mr. CLINGER. Thank you, Senator.

Mr. WISE. Thank you.

Chairman BOREN. Thank you very much.

Mrs. NORTON.

Ms. NORTON. Thank you, Mr. Chairman. I appreciate the testimony of Mr. Clinger and Mr. Wise for an idea that makes a lot of sense to me. I would appreciate their elaboration on a few points.

Your testimony assumes that capital budgeting would lead to capital improvement planning. I would like to hear you describe how capital budgeting would fit the present authorizing and appropriations processes.

Mr. CLINGER. I don't think we are contemplating moving the capital budget out from under the unified budget. What we would propose is that there be a capital budget component under the unified budget so that there is not a disconnect then between what we would call investments and what we would call operating expenses.

But what we are saying is at the moment you can't make any kind of judgments as to what does constitute investment, what does constitute operating because it is all mixed together. Every agency, department has that as part of their budget submission to the Congress. We started some years ago to move toward this by expanding what was called "special analysis D" in the unified budget but it really was just primarily a look back at what had been spent on infrastructure but not an attempt to look forward.

As I have said, and I think Congressman Wise and I agree, this primarily is a planning tool as much as it is a budgeting tool. It is going to give you a better sense of what you need to be doing in the future. Part of that, obviously, which is not a component now, is a needs assessment, where are the needs and how do you balance those needs in a budget process.

Ms. NORTON. You seem to be saying that we would need to do some things differently in order to accomplish that planning goal part of it. What would keep us from doing the catch-as-catch-can, the I want the money to be spent this year in one way and next year in another way?

Mr. WISE. I think one area that would be different is the scoring by the Budget Committee, assuming you keep the same budget process. You are actually looking at a capital expenditure in a different way than you are looking at a consumption expenditure. So in the front end of the process, that would be a little different. If we are operating under the same process, and I know there have been a lot of proposals come from this table on changing that, but if we are operating under the same process, in the front end when the Budget Committee goes to do its work, it has a unified budget, as Bill says, but it is going to have a capital budget it is reporting out and a consumption budget. It is going to have to make sure and stipulate that its consumption budget is balanced, that revenues coming in equal that amount that is going out. For the capital budget, it does not necessarily have to be balanced but you have got to make sure that you have got enough revenues coming in to pay off your investments. So it has to be monitoring that process.

In terms of the day-to-day work of committees, I would not see them being that different. Appropriations I assume would still go ahead and allocate as it presently does ICTE funds and other funds, Public Works would do what it does in terms of authorizing, but the scorekeeping would be different.

Ms. NORTON. As there would be a different budget, do you contemplate the possibility of a different deficit?

Mr. CLINGER. Yes.

Mr. WISE. Yes.

Mr. CLINGER. The deficit in some sense I think is distorted now because capital expenditures are in effect expensed all in the year in which they are authorized and appropriated. That spend out may be 5 or 10 years. Highway construction routinely takes a long time for an authorized project to be spent out. So, yes, in terms of reality, you would see a lesser deficit because you would see the spend out, the appreciation of that investment over a period of years rather than just in the first year.

Mr. WISE. I think the best indication of how different the Federal Government is from almost every other entity, Senator Reid spoke about State governments, but lets talk about businesses for a second, how often are they in front of Ways and Means asking for a different depreciation schedule, different spreading out the cost over the life of an asset, recognition of that. This Government doesn't do that and so the dollar that is spent on a highway that generates economic development is going to be measured the same as a dollar that is spent in direct consumption. So it would affect the deficit in that regard.

Ms. NORTON. In the testimony of you, you express some frustration that this idea has been around for a long time and you and others have been unable to convince Congress to move to capital budgeting. What you do not do is to detail what the arguments have been against capital budgeting and what your responses to those arguments would be.

Mr. CLINGER. I did indicate I think one of the reasons OMB has opposed it regardless of what administration was in is because it would somewhat limit their flexibility to move things from function to function. Their concern was that you would be building a fence around infrastructure at the expense of other things.

I think there has been a problem of definition, frankly. How do you define what is capital and what is not. That debate will go on. There is a whole range of definitions. My bill defines it fairly narrowly; to limit it to bricks and mortar types of things. Others would say, and I think with justification, education is in effect an investment in human infrastructure and should that be part of an overall capital budget. So I think there have been serious disputes about what you include in capital. And the concern has been raised to us that everybody would want to get in under the capital tent, that there would be a move to try and expand it so that everybody was under capital and therefore somewhat protected. Those are the kinds of arguments. I think they have some validity but, obviously, I keep coming back to the fact that what we're doing now isn't very well. We had better try something different.

Mr. WISE. Bill explains it very well. The argument I have heard used most often is would this be a similar situation to what happened in New York City back in the 1970s when there was a capital budget there and a lot of items, some allege, were included that should not have been. That is why both his legislation and mine define what would fall under that capital budgeting definition very narrowly. I think that before anybody could include something, you are going to have to make sure that there has been a lot of review and that it actually does produce return.

And finally, I suspect Bill's legislation, I know mine does, has in it provisions that require the Comptroller General to constantly review these definitions, to review what is being defined as capital budgeting, and to certify that it is truly capital that is returning revenue as opposed to something more dubious.

Ms. NORTON. I know about the New York experience and wonder how typical that experience has been and whether the States, for example, generally keep capital improvements defined as physical and infrastructure. Are they able to balance their budget, as you say brag about balancing their budget, because typically they do shove things into capital budgets? I think we would all profit from having some evaluation of the experience in the States.

Mr. WISE. I think there is another question as well, which is it is not shoving things in, it is whether it should be there and whether, indeed, some of the Federal deficit ought to be genuinely considered a deficit when what we're doing is expanding the pie over time as opposed to contracting it.

Ms. NORTON. Billions of dollars of this budget should not be considered a deficit, billions and billions of dollars. The most frustrating thing for me, I'm on Public Buildings and Grounds, is scoring. As you said, it is counterintuitive, nobody does it this way but us. What I am not sure of is whether there are States that having had this experience for decades have conquered this or in effect whether not what should be in it is in it, but what shouldn't be in it is typically in it and, therefore, they can say at the end of the year, "We balanced our budget, Feds; we're a whole lot better than you".

Mr. WISE. For the last couple of years they have had medicaid to use for that. But they may go back to other things.

Mr. CLINGER. And typically the States do this by authority financing. They have authorities to handle water and sewer type projects and so forth which are outside of the budget parameter altogether, which is why they say they balance their budget when, in fact, that is not true.

Ms. NORTON. Thank you, Mr. Chairman.

Chairman BOREN. Thank you very much.

Ms. Dunn, any questions?

Ms. DUNN. Thank you, Mr. Chairman. I just want to express my pleasure in having the opportunity to serve with both of these gentlemen on the Public Works Committee. I regret that I have missed most of your testimony because of some issues having to do with my home district. But I do want to indicate to you that we are well aware that this kind of budgeting is done in many State legislatures and I want to let you know that I think that the newest members of this class, of whom there are many of us, will be most interested in your testimony. I will make sure it gets to them.

Thank you, Mr. Chairman.

Mr. CLINGER. Thank you very much.

Chairman BOREN. Thank you both very much for sharing your thoughts with us. We really appreciate your taking the time and showing the interest in our work. Thank you.

Mr. WISE. Thank you, Senator.

Mr. CLINGER. Thank you.

Chairman BOREN. I think both Representative Cox and Representative Orton are here. If they would perhaps come forward and

we will turn to them at this time. I am not sure which one of you is going first. Do either one of you have time problems? What I would really like to do perhaps is have each of you give your opening statements, one following the other, and then my colleagues and I can ask questions to both of you following that, if that would be agreeable to you.

Mr. ORTON. I have no objection to that. If Mr. Cox doesn't mind sitting around through my opening statement, I'll allow him to go first.

Chairman BOREN. Let me say we are very pleased to have you both here. Representative Christopher Cox from California was elected to the House in 1988, served also as the associate counsel at the White House before coming to Congress, so he has had experience in both the legislative and the executive branches now and has been able to see both sides of that equation.

Representative Bill Orton from Utah was elected to the House in 1990 and now serves on the banking, foreign affairs, and small business committees.

We welcome both of you to the committee and we appreciate very, very much your taking the time to come and be with us.

Mr. Cox, we will begin with you and then followed by Mr. Orton.

OPENING STATEMENT OF HON. CHRISTOPHER COX, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. Cox. Thank you, Senator, and Congresswoman Dunn. It is a pleasure to join you here this morning because I believe this Joint Committee was created to answer a crisis as serious as any in the history of our institution. Congress has forfeited the public trust. We have habitually violated the deadlines and ceilings that our own budget laws impose, and we have effectively abdicated control of much of Government spending.

Every year, for example, Congress simply writes a blank check for welfare and other entitlement programs and declares it "uncontrollable". For the last 30 years, Congress has appropriated so much more money than we have taken in in revenues that our national debt now exceeds \$4 trillion and we will in the days ahead be asked once again to raise the legal limit on the amount of debt that we can undertake in the taxpayer's behalf.

There is only one way that we can win back the taxpayer's confidence and the legitimacy of this institution. We have got to have a full-proof and honest way of dealing with other people's money.

So I am here today to appeal certainly to everyone of you but also to all of our colleagues to transcend partisan habits, to put aside old ways of thinking about the way we appropriate funds.

The simple truth is this: The chronic failure of Congress to balance the budget is the nearly inevitable result of a poorly designed congressional budget process. This process not only permits but actually encourages violation of the very laws designed to enforce the budget limits. Any sincere effort at deficit reduction must be based on reform of this broken-down budget process.

The system itself is confusing certainly to the public and the press but also to many Members to whom terms like "current services baseline", "302(b) allocation", "undistributed offsetting re-

ceipts" often produce nothing but blank stares. The budget committees—

Chairman BOREN. I was going to have to stop you and ask for a translator to come and help with your testimony here so we could follow it.

Mr. Cox. Precisely. The budget committees, whose members at least have the incentive and the opportunity to understand the nuances of the law, are powerless to enforce the choices that they make. Indeed, President Clinton has already violated the budget law when he failed to submit his budget to Capitol Hill by the February 1st legal deadline.

We have got to adopt a system worthy of the people's trust. It has got to be strong enough to withstand even the wildest efforts at circumvention.

The proposal that I have put together with democrats and republicans who have sponsored this legislation thus far, over 150 of them in the House and the Senate, is called the Budget Process Reform Act. Its hallmarks are simplicity, clarity, and evenhandedness regarding the role of the Congress and the role of the President. I am hopeful that now that we have a democratic White House, and administration, OMB, and a democratic Congress that the political jealousies that have often prevented a new accommodation in the budget process will be erased and that this is our optimal time to move forward.

Here is the key feature of the Budget Process Reform Act. It will require that we have a simple and understandable and enforceable budget first and spending only second. Right now, as we all know, the Congress is actually considering and passing supplemental appropriations that are wholly outside the very budget that we are also simultaneously in the process of passing. This is just one example of how the budget itself is not a tool of discipline.

Under the Budget Process Reform Act, it will be out of order in either the House or the Senate for anyone to consider or debate spending bills unless the budget is first in place in the form of a law.

It will be, in essence, a 1-page budget, not the President's detailed budget submission that normally kicks off the process, but the 19 major functions into which CBO and OMB already divide all Federal spending and which appear in our existing budget resolution. But this new budget resolution will be passed in the form of a law, a joint resolution signed by the President, bringing him into the process early rather than at the last minute. As we know, we have had so many eleventh hour accidents and near accidents when we send our budgets down to the White House and the President has only the choice of signing them unread or shutting down the whole Government.

If the Congress passes a budget on time, then it can begin spending money in the normal fashion. But because the budget will be a legally binding document, not the nonbinding concurrent resolution that presently we use, every single piece of spending legislation will be measured against it and it will require a two-thirds vote to exceed any one of these 19 budget ceilings. This is a serious supermajority requirement. But keep in mind that the Congress can set these budget limits as high as it likes. For example, the

budget need not be balanced. Congress must, however, choose and, once that choice is made in the form of a law, Congress must live within it.

If the Congress chooses to exceed the budget by a two-thirds vote, the President of course has the opportunity then to veto it. The Congress will then be put to a repeat vote on the over-budget items. That kind of redundancy and public accountability is yet another way for us to limit the over-budget spending.

The President will then be given an additional tool if Congress by supermajority breaks its own budget law—line item reduction. This is simply variation on a theme of line item veto, enhanced rescission, and so on. Line item reduction will be as to line item veto what a dimmer switch is to a light switch. The President can pare back the over-budget portion of the spending to the level originally set by Congress in its own budget. So the President will not be enforcing his own policy choices on the Congress, rather he will simply be enforcing the policy choices enshrined in the form of a law made presumably seriously by Congress itself.

There will be a number of opportunities of course for Congress to circumvent even this kind of a system. The Budget Process Reform Act outlaws all known methods of cheating. For example, there will be no more Budget Act waivers. Our Rules Committee in the House routinely waives the Budget Act. Over half of all the rules granted for debate have waived the Budget Act. This will be outlawed under the Budget Process Reform Act. Any waiver of this type will have to come to the floor and will have to muster the same two-thirds vote.

All spending will be brought under the control of the budget. We will have no more blank check appropriations. As you know, the definition virtually of an entitlement program is one for which the appropriations language reads "such sums as may be necessary". This is essentially a blank check. And when enormous portions of the Federal budget are put outside of budget controls, it is no wonder that we run way beyond our means each year.

Under the Budget Process Reform Act, every category of Federal spending except interest on the debt and social security will be appropriated with a fixed dollar amount. Congress, in its presumed careful study and wisdom, will be put to the task of choosing an amount sufficiently high that we will not shortchange any of the beneficiaries of these programs. As Senator Lugar showed with his food stamp amendment, it is possible to have an appropriated entitlement. Under the Food Stamp Program, we have a fixed dollar appropriation each year and then the Secretary of Agriculture is given regulatory authority to adjust benefit levels and eligibility requirements so that at the end of the year the program spends out precisely what was appropriated.

We have circumvented that with supplemental appropriations. But under the Budget Process Reform Act, that itself would require a two-thirds vote. So in this fashion, we can get a grip over what are now called uncontrollable programs. They are not uncontrollable, we simply choose not to control them.

Finally, in order to avoid Government shutdowns which have plagued us for years and years, if Congress fails altogether to adopt a budget, then last year's accounts will be reappropriated at the

same levels automatically through an automatic continuing resolution. This will take out some of the opportunity for extortion and hostage taking that presently exists in the political combat.

In a nutshell, this is the Budget Process Reform Act. It is designed to make sure that we live within the legal deadlines and a the limits of a responsible budget. It is a bipartisan plan I stress. It has been introduced on the Senate side by a member of this committee, Trent Lott, and on the House side we have democratic sponsors who I am hopeful will expand in number so that we can go from the 150 at present to the 218 necessary to gain passage. This is certainly the season for it and this is certainly the committee that we need to look into things just like this. I appreciate the opportunity to talk to you today.

[The prepared statement of Mr. Cox is printed in the Appendix.]

Chairman BOREN. Thank you very much, Mr. Cox. You have given us some very good ideas and we will come back to them in just a minute in questioning from the committee.

Mr. Orton, we would be glad to hear from you at this time.

OPENING STATEMENT OF HON. WILLIAM ORTON, A U.S. REPRESENTATIVE FROM THE STATE OF UTAH

Mr. ORTON. Thank you, Mr. Chairman. Just one brief update on my biography that you read at the beginning. I now also serve on the House Budget Committee and I appreciate the opportunity to serve there.

I would also like to commend the committee for the work which you are doing. I am proud to have been one of the first sponsors of the legislation which created this committee in the last session of Congress and am proud of the work that you are doing and wish you great success. This, indeed, is one of the most critical committees now meeting. There are problems in the organization and operation of our Congress and I have confidence in the members of this committee that they can make valid recommendations.

I have been extremely concerned about the budget process far longer than I have been involved in politics. It is one of the issues which drove me to stand up in my home community and say something is wrong, we need some change in the way we are budgeting and spending money in Washington. When I came here I took it on as one of my own personal projects.

The first thing we did is pulled all of the legislation that had been filed since 1974, the last time there was a major comprehensive budget reform bill, and looked at all of the pieces of legislation that everyone had filed, House and Senate, both parties, examined all of them, looked at ideas. Then we started sitting down with members on both sides of the aisle and saying "What do you think of this idea?" "Why wouldn't this work?" "Do you think this would work?" We went back to the drawing board over and over through months and months of bipartisan discussions, looking at old ideas, new ideas.

What we came up with, we go one step further than Mr. Cox, we call it the Comprehensive Budget Process Reform Act because we attempt to take all of the good ideas that we could come up with and incorporate them. What I have done, in order to facilitate our

discussion and maybe keep the staff awake, is prepare some Ross Perot type flow charts here. For those of you with aging vision, we have given them to you in 8 1/2 x 11 sheets that should be in front of you.

The first flow chart in blue outlines the current budget process. In the current budget process, as we know, the President submits his State of the Union message and his budget request which Congress is absolutely under no obligation to take any action on whatsoever. No vote is ever required; we simply can ignore it and go on and do our own thing and create a concurrent budget resolution. Of course the President's figures are based on OMB, ours are based on CBO, neither one of them have been particularly stellar in their calculations. In fact, they average a \$42 billion error over the last decade in each year.

We then sit down in our appropriations process, we create a concurrent budget resolution which directs appropriations committees as to how they are going to appropriate. The President is allowed to veto each of those separate appropriations bill. Almost never done. Also, the President is allowed to submit a rescission request. Sometimes it is done, oftentimes it is not serious because also there is absolutely no action required on that rescission request. We have a time period in which if we are going to vote we must vote, but if we don't vote, so what. So we are not actually required to act on his rescission.

So what we do then is through our appropriation and spending process we come up with what we determine is actual receipts and outlays which historically has been running at a \$200 to \$300 to \$400 billion per year deficit. We turn around and increase the public debt limit. And in budget reconciliation, we look at what actually happened and we use reconciliation to see where we went wrong and we use that to revise next year's projections of rosy scenarios.

We continue to go on and on in creating budget deficits.

The next sheet in red and blue takes the existing budget process and interposes in red the changes that are included in the Comprehensive Budget Process Reform Act of 1993. Let me just go step by step. The whole purpose of this is to bring the executive branch and the legislative branch together in a working process to come up with fiscal responsibility, to manage our scarce resources, make those decisions, and balance the budget.

So to start off, we would require by law that the President submit a budget request in balance. New concept. Hasn't been done over the past—probably never has been done. So it must be submitted in balance and, another new concept, we have to vote on it. That has to be one of the proposals that we vote on in our budget resolution process. So the President is guaranteed a vote on his budget resolution.

In our concurrent budget resolution process, there are many who suggest that we convert this to a law rather than a concurrent resolution, giving the President the authority to veto and so on. That doesn't give me a great deal of heartburn, it does others. We found enough heartburn in the House, enough people who said, no, if you make it a law and the President can veto it, it takes too much power from us in the Congress. We wouldn't go for that, we won't

vote for the process reform if it is going to be made a law. But I think it could be a law. My bill doesn't make it a law. We still have the concurrent budget resolution process. But in that process we would go to a biennial budget, a two-year budget. I think you have heard a number of people testify as to the advantages, I won't go into that again. It is explained in some detail in my testimony and in the bill itself.

We would also go to a zero based budget. Meaning, we would eliminate current services budgeting and require the agencies to submit budgets for their specific agency or department that particular year. Now in order to allow the President to submit to us a budget where he can determine where to really cut instead of just saying we're going to have an across the board 1 percent cut or 2 percent cut or limit to 1 percent inflation, instead of that we have got to have some type of knowledge upon which to base our budgeting.

And so we would require each department head submitting to the agency head to submit two budgets in addition to the budget they want. They can say here is what we really want but they would also be required to submit one budget showing a 5 percent cut, real cut, in spending that forces them to say where in their department if they had to cut 5 percent they would cut; and also submit a 15 percent cut budget saying where they would cut if they had to cut 15 percent. The agency head then is required to submit to OMB along with their wish list of here's what we would like in our budget, they also would have to submit one additional budget with a 10 percent cut. The President would then have identified those areas from the department heads and the agency head where if they really had to cut, that's where they would do it. Than then gives the President the ability to identify the best places to cut.

We would also require a capital budget. You have just heard quite a bit of testimony on a capital budget. I believe that ours is the best. We looked at all the different capital budgets, there are problems. We would not take capital items off budget, they would still be on budget. We would have one budget, a unified budget. It would be one deficit. But what we would do is use the same principles that business and State governments use in capital budgeting and we would allocate in our outlays each year that percentage amortization, if you will, of the capital asset. We create various classes of capital assets. And so it all stays on budget.

The impact of that is in the first couple of years you may have a lower budget deficit but by the time you work into 7 or 10 years of a capital budgeting process, it has no impact on the numbers and so there is no pressure here to try to make things capital assets so you get them off budget, so you can spend more on education because it is now a capital asset. It is still full accountability. What we do though is we account for it through the years as that asset uses up its useful life in our Government. There are advantages to that.

A lot of the economists we talked to said a capital budget in and of itself in a \$1.5 trillion budget really has fairly little economic or accounting impact on a budget. I think that's accurate. But under the current budget system we have where we are budgeting annually, it makes a great deal of difference in the annual budget

whether you have to budget in \$20 billion to buy a new complex because it is an annualized budget and that is all an outlay, or whether you spend X amount of money to lease that asset every year. And so what our current budget system is doing is forcing us, because we're in an annualized outlay budget, not to consider the benefits of purchase versus lease versus other forms of ownership and use. And so a capital budget gives us the tool to make those financial decisions.

Moving quickly. In the first year we do all of our appropriations. The second year of our biennial budget is for authorization and oversight. We would also include sunset laws. We have allocated the entire Federal budget into a ten year recurring reauthorization so every other year we are reauthorizing 20 percent of the Federal budget. So once every decade we have looked at and reauthorized or eliminated every program in Government.

We also would include performance standards. We would require performance standards to be included in legislation that show this is the purpose, this is the goal we're trying to get at when we create this program, this is what we think it ought to accomplish, and this is how we are going to judge it as we come back in our oversight. So we would include performance standards requirements.

The Appropriations Committee still appropriates. That process doesn't change in my recommendation. There are those who would suggest we eliminate the appropriations committees. Great idea in my opinion, but there are enough people on the appropriations committees they would probably kill the bill if you try to eliminate appropriations committees and so it is still in there.

The President still has a two-thirds veto on appropriations bills but we include I think the best enhanced rescission bill. This is line item veto without the constitutional problems. You wouldn't have to amend the Constitution. Simply stated, it allows the President to submit his rescission request on a line item basis but would force us to vote on it, up or down. Now you can avoid the constitutional problems with that kind of a rescission over a line item veto. So I think that is a good addition.

Finally, we get down here to true, actual receipts and outlays, a true deficit. We don't use that just to project next year. We say when you figure out the true deficit, now you have got to do something about it. So we require monthly reports coming in from OMB to the budget committees so we can follow what is happening. We will know before the end of the year whether we are getting the receipts we expected, whether we're spending more than we expected. If we actually spent more than we expected, we then require the President to make his recommendation to Congress to cure the deficit—either increase these taxes or cut this additional spending. If he determines that in fact we are in such a bad situation that increasing taxes or cutting spending would throw us into a depression or we're in a war and we can't do it, he can request a waiver of the requirement.

We would be required by law to provide either for increased taxes or spending cuts to balance our current deficit in the fiscal year that just ended. It ends September 30th. Before we adjourn, we would have to make that determination. We look at the Presi-

dent's recommendation, we decide can we cut spending, can we raise taxes. If we decide we can, we pass that bill and that is subject to a veto by the President if he thinks we're cutting too much, spending too much. Or, if we determine that we're in such a bad situation we cannot be fiscally responsible, we pass a waiver law and that is subject to a veto by the President.

So you bring the two bodies together and if neither of them can agree, if you just cannot pass the waiver, you cannot increase the spending, you cannot increase the taxes, you say it is too tough for us. We are going to go home and face the voters and tell them it is a tough problem we just can't fix. Then fifteen days after we close out that session, there is a hard sequestration that eliminates the deficit.

Now this will put our fingerprints and the President's fingerprints on every aspect of the budget process. This alone will not solve the problems but this will force us into accountability, will put our fingerprints on it so we will be accountable and thereby make those tough decisions. That's the problem we have is that it is too easy to make the easy political decision, go back and argue it in your own home district, and never solve the problems. So that is what this is designed for.

Now before concluding these comments, let me make two other very brief statements not on the point of budget process reform. If you find them interesting, I would love to give you more detail on them.

The first is on scheduling. Part of the problem we have around here is, as we all know, we are running around like chickens with no heads. We've got three or four different things scheduled all the time. When a vote comes on the floor it takes 45 minutes to get the senators there, it takes 30 minutes to get the representatives there. We are wasting a lot of time. If we went to a 1 week plenary session where all members are there and listening to the debate, participating in the debate, five minute votes, you save time and you can accomplish all the floor action in a 1 week session.

Actually, you would begin with a 2 week committee and markup session. The first 2 weeks of the month would be all the committees and subcommittees are working, you're marking up legislation, you prepare the legislation to take to the floor. Then you spend 1 week on the floor, you vote it. The fourth week you go back home for district work period. You listen to the people, you talk to the people, you say this is what we just did or this is what we're contemplating doing in the next 2 weeks, we've got these markups. You come back, 2 weeks of committee work and markup, 1 week of plenary, and back out home for another week. I think that kind of scheduling process would give us the ability to be more organized, to waste less time, to direct and devote those efforts, have people sitting there listening to one another and get back to real debate. I think we need that.

The other concept has to do with the problem of "special orders" in the House which has become a significant partisan forum to bash one another and bash the President and so on. I think special orders are a good opportunity to take the time to explain legislation that is coming up, to enter into colloquies and debates, but I think we need more accountability. So I would recommend the

committee consider dividing up all the costs of special orders time—not eliminate it, not reduce it. Divide up what it costs us to conduct special orders, allocate that out per individual in the House. It comes up to about 3 hours of special orders per person throughout the year. You would then have a budget for 3 hours for special orders. You can take that time however you want. If you don't want to use it, you can contribute the time back into the budget and it is unused and we didn't have to keep the place open for that three hours. You could not transfer it to someone else. If you want to take the House and take your special order time and yield time to someone else on the floor, you could do that. So it is not censorship, it is not shutting anybody up, but it is making us each accountable for the time we spend in special orders.

I didn't have time to come in when you were looking at these other process reforms and so I would submit that to you for your consideration.

Mr. Cox. Because your schedule is so screwed up by the Congress.

[Laughter.]

Mr. ORTON. Exactly. Three different subcommittee meetings and debates on the floor at the same time.

So thank you, Mr. Chairman, and I would be pleased to answer any questions.

[The prepared statement of Mr. Orton is printed in the Appendix.]

Chairman BOREN. Thank you very much. Those scheduling ideas are very interesting ones. We have struggled with this idea of what you call the plenary session, of trying to get people on the floor together in a deliberative fashion and to move the work along more quickly. It is something we are very interested in. Senator Byrd talked about it as well in terms of the Senate process. It is a little more difficult for us maybe in that our time constraints on the floor, the possibility of filibusters and so on, could throw off if you were in a strict 1 week period. We could end up having our whole week perhaps taken up by one filibuster on the Senate side and then not able to move the committee work. So it is a little more complicated but I think it is an idea that has a lot of merit if we can figure out a way to make it apply in both bodies.

On your process, let's suppose that you were in the situation right now that you're in, would you phase us into this requirement? Let's suppose the President——

Mr. ORTON. My phasing is by year 2000.

Chairman BOREN. Okay. I was going to say this President doesn't feel that this year he can submit a balanced budget. The fact that he has advocated cutting as much as he has and raising as many taxes as he has certainly has engaged the general population in the discussion of the amount of sacrifices being required right now. He is obviously trying to cut the deficit in half in 5 years which is a major undertaking and would be very valuable if we can get it done. I hope we can. So you would phase this in.

Would you set targets along the way to start with?

Mr. ORTON. Yes.

Chairman BOREN. So the first year he would have to improve the deficit, say, from the year before by 10 percent or something like that. Is that the way that would work?

Mr. ORTON. Yes. It does phase in. It is a little less in the up front years because, as you are very well aware, it takes a significant amount of budget authority reduction to reduce outlays in the current fiscal year. So it does phase it in taking into consideration that delayed spend out. In the out years, you can get much more rapid reduction. So we do phase it in; it is not a straight 10, 10, 10. We phase it in over a period that the budget committees could live with.

Chairman BOREN. In listening to your testimony, Mr. Cox, you talked about the adoption of budget resolution as a law which would then be binding and could not be violated by bringing bills out of committees that would violate it in the meantime. Let me ask you both how would you deal with supplemental appropriations bills? For example, we are now facing the situation, I guess the House will be voting perhaps today on a supplemental appropriation request, we have not yet acted on reconciliation in terms of writing into law what the budget deficit will be and what cannot be exceeded so that we don't require offsets.

Would the supplemental appropriations bills, let's take the situation we're in now, let's assume we've already passed the budget resolution or the budget law or the presidentially submitted budget under your two plans, let's suppose we've already taken the first step—you described the first step slightly differently but I take it they are both binding once they have been adopted in each of your proposals—what would happen, for example, to the offering of a supplemental appropriations bill especially if it were, as this one is, to apply to the previous year's money? How would that be handled? Would that be legal or would it not be legal under your plans?

Mr. ORTON. Under my plan, all the appropriations would come under the requirement of being in balance. If, in fact, you were under appropriated in that fiscal year, under your budget caps, you were in balance, you wouldn't have a problem.

Chairman BOREN. A supplemental would be in order.

Mr. ORTON. A supplemental would not be a problem. If that supplemental took you out of balance, then you fall right in here under the requirement that you would either have to identify additional cuts, rescissions, or tax increases and pass it by law to pay for it, or you would have to request a waiver. Now that is a similar concept to the emergency spending waiver that we now have today but slightly different in that you would separately have to pass a waiver and that waiver would have to be voted on and that waiver would be subject to a veto by the President.

Chairman BOREN. Right. I see.

Mr. Cox?

Mr. Cox. Under the Budget Process Reform Act, supplemental appropriations, that is to say add-ons, are subject to the same two-thirds requirement that any end run of the budget is subjected to. The premium is on setting budget totals that we intend to live within in the current fiscal year. Keep in mind that these supplementals under the Budget Process Reform Act are going to be

coming up within the very same fiscal year for which we have already passed a joint resolution, a budget in the form of a law. So, if need be, we can add on but we want to make sure that there is a bias toward setting a budget that is realistic. In other words, we want Congress to mean what it says and say what it means when it passes the budget up front.

This current supplemental that we are considering I think is an example of the abuse to which the process can be put. Some \$143 million of the current supplemental is going to go to pay for new computers, laptop computers and so on for field agents for the IRS. A part of their modernization program that was already on line to be paid for throughout fiscal year 1994. It is not a dire emergency, it is simply a convenience.

Chairman BOREN. Some of us are hoping, and I don't know what will happen in the House, but since we are not operating under either one of the budgetary proposals that you've made and since we still have an open-ended way of offering supplementals, some of us have suggested that this one at least, while it would still apply to 2 different budgetary years, that full amount of this supplemental not trigger except for those items that really are urgent—unemployment and summer youth jobs, for example—but the rest would not trigger into effect until the President signs the reconciliation bill which, at the bare minimum, would have to meet his deficit reduction targets. We will be talking about that over on this side.

That's just an interim stop gap and doesn't deal with the kind of problem that you are both trying to deal with systematically. As I understand it, both of your proposals would deal with the supplemental, if they were already in effect, they would deal with the supplemental appropriations problem we now have.

On the automatic continuing that you mentioned, Mr. Cox, that's a very interesting idea to me because I think it really might keep us from doing crazy things in the eleventh hour. I have been concerned with the sort of blackmail that the President is really put under. If you put the President in a situation where he either has to accept one omnibus continuing resolution—and we've seen that where something like 70 percent of the entire budget of the country was wrapped up into one bill. When you do that, the constitutional power of the President to veto legislation really has no meaning if the President is put in the position of accept everything all in one bill or shut down the Government with all of the problems that causes. It is really no choice and so the veto has no meaning anymore and we're pushed to do some really unwise things. So I think the idea that at least you would continue under an automatic continuing resolution and not face the shut down of the Government is something that has a lot of merit and is something you've given me to think about with it.

If we also had the budget discipline that you are both talking about, obviously the level of spending which would be automatic and continued would depend upon whether you were within your budget guidelines. Otherwise, you would be operating under automatic trimbacks at lower levels of spending.

Mr. Cox. Senator, if I may. On the automatic continuing resolution, I think you make an important point. It is ultimately extortion or blackmail when at the eleventh hour or well past it the

President is faced with a document that may be this tall—in my earlier incarnation as a lawyer in the White House, I was on the other end of Pennsylvania Avenue receiving these things—no one can read it and so it is not only the blackmail of rolling everything together, it is the fact that the executive who is supposed to be one part of our checks and balances finds his veto power vitiated, finds even his power to read and understand the legislation he is signing vitiated. Likewise, there is some discipline in the process itself. Remember, the automatic continuing resolution is going to reappropriate at last year's levels, an outcome that surely both the President and the Congress would like to change because of different priorities this year. So they would be encouraged to act in a timely fashion to avoid that outcome.

Chairman BOREN. Yes. I think you are right.

Mr. Orton?

Mr. ORTON. I think it certainly has merit to look at. But let me share with you one concern I have on an automatic continuing resolution. We all know that the world changes and that we have to change our Government. One of the greatest problems we fight against is the status quo. Getting rid of bad programs, reducing existing spending to free it up to spend somewhere else. I am afraid that if those people who are vested in that old spending who want it to continue, if they know that by blocking the process and creating gridlock in the budget process so you can't pass the change, they automatically get status quo continuing on, I am afraid that the automatic continuing resolution may be the very thing that eliminates our ability to come up with new spending or cuts.

Chairman BOREN. That's a point. I think probably part of it would depend upon whether or not you are in a situation where some automatic sequestration of some kind is taking place; in other words, if you are continuing on but not in as robust fashion, let us say, with the spending. But you raise a good point. That in itself might drive those that are in continuing programs to want us to take action and set priorities if they are being trimmed back in the process.

Mr. Cox. Congressman Orton's concern is a very real one and I will—

Chairman BOREN. Do you have an answer to that?

Mr. Cox. The interests of the status quo are served at the moment because of baseline budgeting which you outlaw. So does the Budget Process Reform Act. The automatic continuing resolution does not automatically reappropriate at the baseline, it appropriates the real hard dollar numbers from last year. This is an outcome that all bureaucrats will seek to avoid.

Mr. ORTON. But all that does is eliminate your inflation built into the baseline.

Mr. Cox. Well, let me put it in real terms. I have just on the floor of the House said that I will write a check for \$100,000 to Bill Clinton and the Democratic National Committee if spending next year is less than this year. We all know it will not be. So we may be talking about spending cuts but our Government is incapable of doing that. An automatic continuing resolution, quite frankly, is a very, very tough thing for everybody in Government and I don't think this is an outcome that people will want.

The trouble is that without it the President is truly without a place in the negotiation. We have got to imagine when you shut down the entire Federal Government, as President Reagan, for example, was forced to do a few times, who is on an iron lung somewhere that the Government was paying for. All of the permutations and consequences of Government-wide shutdowns are impossible for human beings to imagine. It is an irresponsible thing for adults to engage in and we have got to guard against it.

Chairman BOREN. I think there is a point about that. One of the things that I think you mentioned in your opening comments is you think it is healthy for us to have a period of time—I think I heard you say it this way, I don't know if that's what you meant to say—but that in the abstract it was healthy that we have the same party in control of the White House and the Congress. And I thought I heard you say it was good the democrats were in charge of both.

Mr. Cox. I'm sincere about this Senator. I think it is an historic opportunity for us to fix the budget process precisely for that reason.

Chairman BOREN. I do too. And having served both as a governor and as a legislator and have seen both sides of the system, it does give you a perspective about it. I think it is very unhealthy that in a way the Democratic Party over the years has come to sort of regard Congress as the institution of the Democratic Party and, therefore, we should all guard the prerogatives of Congress; and the White House as the institution of the Republican Party. In a way, it has caused a bias of the Democratic Party toward the legislative powers and prerogatives and the Republican Party toward executive branch powers and prerogatives and it is not healthy either way.

Republicans just as much as democrats have an interest in making sure that the legislature has a proper function, and democrats should have just as much of a concern about guarding legitimate executive branch role and prerogatives. So this does give us a period of time when you do have one party with control of both branches of Government to sort of take that bias away and to look at what is the appropriate role of each. So I think it is very helpful.

On the entitlements. We have had several people come to us and talk about the fact that our current budget process really does not enable us to look at mandatory entitlement programs, as we seem to have come to think that they are, which have been growing at a faster rate by far than appropriated programs. So that when you talk about controlling the deficit, getting the Government under control, when you leave such a huge amount of it in essence off budget and uncontrollable it becomes almost impossible to bring the whole budget into balance ultimately. I suspect if we are ever going to get, Mr. Orton, to where you want to get us to by the year 2000 and then get on line with the President submitting a balanced budget, we will never be able to do it as long as we are trying to do it just with discretionary spending.

I wonder if we can't include some kind of a proposal where we put caps on entitlement growth, where we limit entitlement growth to either CPI or change of the age group or the eligibility pool for certain programs and then have a sequestration to keep under the

caps, maybe giving us a certain amount of time in which we have to act to reset priorities of programs.

Mr. Cox, I noticed you exempted social security from that and, obviously, that is one of the largest entitlement programs. Sometimes when we have gotten into these situations there have been proposals that have touched social security in the sense of saying let's have a CPI minus 1 or something else for a year or 2 or a freeze on COLAs that would also attach to social security. Do you exempt social security just because of the practical realities that that's just tougher politically to get done? I say that as a realist, not to say that you're not willing to take on tough ones. But is that just your view? This committee will have to be realistic. We want to get as sweeping a reform as we can get of Congress. We also know you can overload the boat to the degree that you don't have a chance to get anything. So we are going to try to push the envelop as far as we can in terms of getting as much reform as we think we can possibly get and still pass our proposal. Is that a practical consideration or is there some other reason why social security should not be considered under budgetary constraint?

Mr. Cox. It certainly ought to be considered within the budget. The Budget Process Reform Act seeks to give fundamental meaning to the social security trust fund. The problem in Congress these days is not that we are observing the social security trust fund and paying attention to the law, it is to the contrary. We are, in effect, treating what most of our constituents and certainly social security participants view as a real trust fund—that is, something bifiduary set aside responsibly—we are treating that as a piggy bank.

As you all know, we spend monies on a current basis from the trust fund for all other manner of programs. And in that sense, social security is masking the true size of the Federal deficit. I think that it has been responsible legislation by the Congress to by law exclude social security and the trust fund balance from the deficit calculation for that purpose.

What we must do is make sure that Congress observes accounting rules and standards and that we budget on a current basis for the things that we want to pay for. You mentioned caps. This is, of course, what Senator Graham has in mind. I want to distinguish between that kind of a choice which is a choice on the numbers, it is, in essence, a decision about how much we want to appropriate for a particular account, from a process change which tells you the manner in which you go about making those decisions.

Under the Budget Process Reform Act, we can appropriate for an entitlement program as much as we care to. We can double the size of medicare next year under the Budget Process Reform Act if that is Congress' choice. The difference is that we'll have to do so with a fixed dollar appropriation. And that, in effect, is a form of cap because it is a real dollar amount that is by the will of the majority passed in the form of a law. We have got to bring these things within the discipline of the budget. Otherwise, if we have the current system with a blank check, "such sums as may be necessary", we have ceded control over the lion's share of Federal spending.

Chairman BOREN. You would bring in under your proposal entitlements because you would be designating how much could be spent on each one?

Mr. Cox. That is right. And the difference with social security, to recap, is that it has already a secure earmarked form of payment which I don't want us to monkey around with.

Chairman BOREN. Mr. Orton, when you say the President submits a balanced budget in the system you set forward, would you include lines for entitlements as well? Would you bring entitlement spending into the budget process in the same way?

Mr. ORTON. Yes. Under our proposal, we have one unified operating budget which must be in balance. Within that operating budget you have a separate capital budget, you have what has been called a consumption or an operating budget, you also would have a separate social security budget under our recommendation. Social security is not what is driving our deficit. We are bringing in more in revenues than we are paying out currently. Is it financially and actuarially sound over the next 50 years? No. Do we need to make some changes in social security itself? Yes, I think we do in the long run. But that is not what is driving the deficit.

Chairman BOREN. Would you bring medicare and medicaid and those kinds of things in under your proposal?

Mr. ORTON. Absolutely. I would say that we have to balance under the budget law, but I do not believe that imposing a budgetary cap on that type of entitlement spending solves the problem because what happens is if you continue to pay out the benefits which by statute the individuals are eligible for because they meet the criteria and all you have done is impose a cap, in August you are going to find out you just ran out of money. Then what do you do? Do you tell them sorry you are not going to get your income security check or your VA benefit check this month, or sorry you have got to leave the hospital because we are out of money?

The only thing we can do—and the cap may then force us to change the statute. But the solution is not in the budget, the solution is in statutory reform of the entitlement programs. That's why I am excited to see the President taking on health care reform, taking on welfare reform, seeing the discussion of COLAs being raised to the attention so we can debate it. That's how we are going to solve the problem, not simply by putting a cap limitation on entitlements.

Chairman BOREN. Suppose though if you had a snapshot, and you have advocated having a snapshot monthly of where we are in terms of meeting the deficit reduction targets, you could have a snapshot on the projections of entitlement spending as well so that you could react to it. If you had in your budget resolution or your budget law or whichever proposal we're operating under, it is fundamentally a similar idea, you could force the authorizing committees—the Finance Committee and the Ways and Means Committee, for example, which have jurisdiction over most of these entitlement programs—to go back in and revise them to bring themselves into compliance within a certain period of time.

Mr. ORTON. Certainly. I would be totally in favor of that.

Chairman BOREN. I know there is a vote starting in the House again that involves both of you and also Ms. Dunn. So I want to turn now to Ms. Dunn for her questions.

Ms. DUNN. Thanks, Mr. Chairman. I will be brief.

I really am impressed with the work that you both have done. It seems to me, at least in my experience, that you are mirroring some very important things that we're seeing among the citizens of this country. Your efforts bring accountability back to the process and they bring, as Mr. Cox said, honesty back to the process, and some degree of understanding. I think it is just really tough to understand this complicated system if you are not dealing with it on the Budget Committee or on one of the authorizing or appropriations committees. I also like, by the way, Mr. Orton, your approach with the zero base budgeting. I like the biennial budgeting. The sunset laws I think we all agree need to be brought into play.

I appreciate your comments on the appropriations committees and the difficulty we will have certainly. I think we are all aware of that and where we have had testimony to combine the processes in a number of ways, it is going to be tough to put that one through.

But I do want to spend a couple of minutes in the time we have before we leave to get your opinions on one issue that has been talked about a great deal, and that is the line item veto. You have both worked that into your process in one form or another. I would like you both to address why you think that is a good part of your process, what it can do for our budget process, whether you agree with the people who say that the Congress is giving over too much responsibility to the executive branch.

Mr. ORTON. Okay. I can start out on that. Simply put, I think we cannot pass a line item veto which gives the President the ability to veto on item-by-item that we have to come back and override with two-thirds vote. It gives him the power of the purse. And I legitimately am concerned about giving the President that much power. We can barely get 218 votes on many of these things. If you have got to get two-thirds, you can't do it. So the President would control the purse. I think that is improper no matter who the President, no matter what the party.

However, it is clear that we have got to bring the President into this process more. We have got to have the members, chairmen of appropriations committees who sneak in things in the conference report be accountable. We have got to have the President be able to X that out and send it back to us and say do you really want to do this. That is what the enhanced rescission does. And by enhanced, I don't think we ought to limit the President, say you can only send back 25 percent of a bill that has been through the appropriations process. Don't put any limits on it. Tell the President you can send back a rescission message to us on any item you want for any portion or all of it you want. If you think it is a lousy idea, send it back and tell us it is a lousy idea, tell us to go on record, put our card in that slot and push the button and say I think it is a good idea to spend X millions of dollars studying how fast asparagus grows or how slow ketchup runs down a board.

By doing that, you don't need a line item veto to bring that kind of accountability, but you have got to have us vote on it. That's the problem with the current rescission process. We don't have to vote. Now when you put us up against our appropriation chairman that wants to spend \$10 million to study ketchup because the ketchup factory is in his district and we have to vote on whether to do that

and go home and answer to 500,000 people at home why we are spending \$10 million of their money to do that, we are going to have to make the tough choice. Our fingerprints will be on it. The public will make us accountable. It will solve the problem. You don't have to amend the Constitution. All you have to do is simply require us to vote on what the President sends us.

Ms. DUNN. Mr. Cox?

Mr. Cox. We have a serious problem that has grown up over a period of many years; indeed, it has grown up over a period of about 200 years. Increasingly over time, Congress has taken to bundling more and more and more legislation into one enormous piece that the President is required to sign or in many cases veto without having even the opportunity to read it. As Senator Boren says, it is not unknown for us in recent years to have put about 70 percent of all the Government into a single bill. This has vitiated the President's veto authority. Our constitutional system of checks and balances works only when each of the branches has an opportunity to exercise its constitutional powers. The President's veto power is a very, very important part of keeping a lid on runaway deficit spending.

When I was working as a lawyer in the White House almost now 10 years ago I had the opportunity to draft the very first enhanced rescission bill. I have been working with this concept for a long time. What we have got in the Budget Process Reform Act is what I call line item reduction. Line item reduction is what a dimmer switch is to a light switch when you compare it with line item veto. The President is given the power to cut back only the over budget portion of the spending passed by Congress itself as authorized in its own budget. What we want to do is have the President enforce the policy choices made by Congress in the budget.

It is true that under our system Congress controls the purse. Many democrats and some republicans have opposed line item veto because they think it shifts policymaking power, the power of the purse away from the legislature to the executive. With line item reduction, we have solved this problem to the satisfaction of almost all of these critics so that the President is given the opportunity only to pare back the over budget portion to the level that Congress set in a law it passed itself reflecting policy choices of the Congress. This requires a two-thirds vote to overcome once the President does it, and, of course, in the Budget Process Reform Act it requires two-thirds to go outside the budget to begin with anyway.

So what we are doing is repeatedly requiring Congress to override the President's choice, override their own budget. These repeated votes, this redundancy in the process single out the ketchup running downhill studies that my colleague was talking about. And by forcing members to go on record in this fashion, we put some teeth into the law that they passed themselves. That is line item reduction in a nutshell.

Ms. DUNN. Thank you. Thanks, Mr. Chairman.

Chairman BOREN. Thank you very much. And again I thank my colleagues. I know that members of the House have to depart immediately to go over to vote but we thank you very, very much for participating and bringing us your suggestions.

Mr. Cox. Thank you very much Senator, Congresswoman.

Mr. ORTON. It was a pleasure to have the opportunity to talk with you today.

Chairman BOREN. Thank you very much.

I might say that our next hearing will be next Tuesday, March 23, in this room. Both of the hearings next week will be in this room, SC-5 of the Capitol. Our witnesses for next Tuesday will be outside experts in the area of congressional budget process. So we will resume our hearings next Tuesday. Thank you very much.

[Whereupon, at 12:55 p.m., the hearing was adjourned, to reconvene Tuesday, March 23, 1993.]

APPENDIX

Testimony of
CONGRESSMAN CHARLES STENHOLM
Before the
Joint Committee on the Re-organization of Congress
March 18, 1993

Mr. Chairman and Joint Committee Members, I appreciate the opportunity to appear here today to discuss budget process reform. As a Member who has been interested in this topic essentially since first coming to Congress in 1979, I am delighted that you have taken up this subject, and I commend you for holding this hearing. I hold great hope for the work of this joint committee in general and I am grateful for the chance of working with the committee as you develop your proposals.

As a preface, I would say that there really are two sets of reasons we need to look at budget reform. The first set includes process reasons, and deal with matters of efficiency and rationality. Our budget process is enormously confusing and disjointed. We have all seen the looks of frustration and confusion on our constituents faces as we have tried to explain the nuances of outlays and budget authority, authorization and appropriations, discretionary and mandatory spending, budget caps, 301a and 301b allocations, and on and on. Granted, much of that complexity is inevitable when you are trying to run an operation the size of the federal government. But to the degree that we can make our budget process more efficient and more understandable, we should do so.

The second set of reasons for budget reform has to do with substantive effects, rather than process. Specifically, I am talking about the dire necessity for deficit reduction. The

federal government has run deficits for 24 years in a row and for 55 of the last 63 years. Obviously, no business could function with such a record. While the federal government has been able to avoid complete catastrophe, we are starting to feel the pinch of fewer and fewer dollars to expend on programs because we must spend them on interest payments. Clearly we need budget reform for deficit reduction reasons as well.

Balanced Budget Amendment

In my opinion, the best starting place for budget reform is a constitutional amendment requiring a balanced budget. Over the years, we have experienced a changing cast of characters, new statutes, summit agreements, and all other sorts of remedies. In each case, we have failed to offer anything but false hopes. Given this long-term trend, a constitutional solution beyond procedural tinkering is required. By raising the threshold of difficulty for deficit spending, the President and the Congress would be forced to set priorities rather than continuing to postpone choices.

Already this year, approximately 250 Members of the House of Representatives have joined Representative Bob Smith and me in introducing H.J.Res. 103 which would require a balanced budget amendment. Last year, our amendment came within nine votes of the two-thirds necessary for the House to pass a constitutional amendment. We are hopeful that the 103rd Congress will at last be the Congress to send this proposal to the states for ratification.

That being said, I quickly follow with the assertion that a

constitutional amendment is not a panacea. It is a first step. It must be followed by hard choices and priority making. It also must be followed with other procedures which will aid in the achievement of a balanced budget. That is what I would like to spend the rest of my time discussing.

Balanced Budget Enforcement

I believe that you will be hearing later on from both Representative Tim Penny and Representative Bill Orton about their budget enforcement proposals. I have cosponsored both of the bills they have introduced and I stand with them in urging your consideration of their proposals.

Briefly, the Penny proposal essentially adopts the Panetta proposal of last year. Through the establishment of deficit reduction targets, a board of estimates, a requirement of the President and Congress to follow the targets, and tough enforcement mechanisms employing a potential sequestration, this package would do much to eliminate the federal budget deficit.

Likewise, Mr. Orton's legislation would set up a process for ensuring that the deficit reduction we claim to achieve will actually occur.

Sunset Legislation

The very first bill I introduced as a Member of Congress was my predecessor's legislation requiring that all federal programs be sunsetted, requiring that we review on a regular basis the programs which we are funding. In these days of having to chose priorities, sunsetting would go far in helping us to understand what our choices are. I understand that Mr. Natcher is

interested in this idea and I am hopeful that we might be able to accomplish something along these lines.

Modified Line-item Veto

I have also introduced H.R. 1013, which essentially is the bill sponsored by our former colleague Tom Carper and which passed by the House last October 3rd by a vote of 312-97. This legislation would allow the President to send down a list of proposed rescissions within three days of signing an appropriations bill and require Congress to vote on a bill approving the rescissions within ten legislative days. If a simple majority of Congress voted against a Presidential rescission, the funds would be released to be spent. The right of Congressional majorities to control the purse would be preserved. This bill will increase the accountability to both branches and increase the honesty of the appropriations process without disturbing the constitutional balance of power.

I am attaching to my testimony a summary of this bill, as well as answers to some of the most commonly asked questions about this issue.

Truth-in-legislating

We have been embarrassed on many occasions by provisions in tax and spending bills that the public justifiably felt benefitted "special interest," privileged narrow interests, and other Members' special constituencies. In past years I have introduced the Truth in Legislating Resolution in response to these concerns. This resolution would require committees to include in their reports the identity, sponsor and cost of each

provision of a bill which benefits 10 or fewer beneficiaries.

Any Member who includes special benefits would have to be willing to experience any resulting publicity about those benefits. Beyond being a simple, good policy of honesty in legislating, it will very likely have the secondary effect of greatly reducing the number of this type of special interest provisions. This legislation is not intended to forbid such provisions, but simply assure that the House is not afraid to shed some sunshine on the laws it passes. By assuring the public that we in the House have nothing to hide, this resolution will enhance the public's confidence in Congress.

Baseline Reform

The current services baseline creates a bias to increased spending. Eliminating the current services baseline would restore common sense and honesty to our budgeting process. We should recognize increases in spending for what they are, and not talk about cutting spending when what we really mean is that we are not increasing spending as much as anticipated.

Continuing Resolution Reform

In past years, we have passed massive, omnibus continuing resolutions in which one huge bill made substantive changes in law and policy throughout the federal government without thorough debate and opportunity for review. While these problems have not resurfaced in the last few years, there is nothing in the rules to prevent similar abuses from re-occurring. H.R. 1889 included provisions that would freeze continuing resolutions at current fiscal year's spending levels and would place strict

limits on the inclusion of legislative language in the continuing resolutions.

Limitation of Waiving Budget Rules

We have waived the provisions of the Budget Act over 600 times since it was passed in 1974. The credibility of the budget process is undercut by the routine waivers of budget rules. Requiring that waivers of Budget Act rules be approved by a 3/5 vote would ensure that the rules are waived only in extreme circumstances. Alternatively, I would suggest providing for separate votes on each waiver under the Budget Act. Either change would do much to restore credibility to the budget process.

Prohibit unfunded mandates

The list of unfunded mandates on state and local governments is extensive. State and local budget are stretched beyond their means in order to comply with federal mandates. Although the mandates are well-intentioned, we should not expect state and local governments to serve as a source of funding for federal programs. Representative Gary Condit has introduced H.R. 140 to require that the Federal government fully fund any mandates it places on state and local governments.

Budget process reforms will not solve our budget problems by themselves. However, by increasing the credibility and accountability of the budget process, the reforms I have outlined here would all be useful tools in dealing with our budget

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TESTIMONY OF SENATOR BARBARA A. MIKULSKI BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS THURSDAY, MARCH 18, 1993

Senator Boren, Congressman Hamilton, and members of the Joint Committee. Thank you for the opportunity to testify today before the Joint Committee on the Organization of Congress.

Today I would like to comment briefly on the need to streamline the authorization process for three federal agencies: the Federal Emergency Management Agency (FEMA), the Environmental Protection Agency (EPA), and the National Science Foundation.

I serve as a member of the Appropriations Committee, and chair of one of its Subcommittees, VA, HUD and Independent Agencies.

VA-HUD controls more discretionary spending than any subcommittee of Congress but the Appropriations Subcommittee on Defense. We oversee 25 different departments, agencies or components of agencies, with a combined annual budget of about \$85 billion, of which \$65 billion which is discretionary.

The budget and appropriations process has been heavily criticized in recent years. Some, such as Senator Kassebaum, have proposed abolishing the Appropriations Committees altogether, and giving annual spending decisions to the authorization committees.

I oppose that approach. But we could accomplish the same objectives through selectively streamlining the authorization committee process. Our principle should be -- one authorization committee for each major agency, one appropriations subcommittee.

Without this framework, Congressional oversight becomes scattered and the potential for real problems develops quickly.

Good examples of this scattered approach are the authorization processes for FEMA and EPA. FEMA now reports to 10 different authorization committees in the House and Senate, and 16 different authorization subcommittees. EPA reports to 34 authorization committees, and 56 authorization subcommittees.

The result is chaos. Too many competing priorities. Every subcommittee that authors a program believes its initiative should be the agency's top priority.

But no authorization committee looks at how the parts of each agency fit together. So my Appropriations Subcommittee, by virtue of the fact that it is the only "one-stop shop" for FEMA and EPA, becomes an authorization committee by proxy.

The National Science Foundation has two authorization committees in the Senate. That makes it difficult sometimes for the House to work with the Senate since the House has only one authorization committee of jurisdiction for NSF.

There are other major agencies in my bill -- the VA, HUD, NASA, and the Commission on National Service -- where the "one authorization committee" principle is in effect and where it works. It works because there are a number of ways -- both formal and informal -- by which we regularly communicate with each of the authorization committees. Where our joint efforts focus on both an agency's mission, and the money that's needed to implement major policy initiatives.

We are working with Senator Rockefeller on veterans health care reform. And we have worked well in the past with Senator Hollings, and former Senator Gore, on space and technology issues.

With FEMA and EPA, however, fragmented authorization and oversight has prevented them from acting in an effective and efficient manner.

Unless we correct this, neither agency will be able to effectively meet the challenges it confronts at the dawn of the 21st century.

Let me explain each agency's problem in more detail. First, FEMA. FEMA was created in 1979 as a "one-stop shop" for the federal government's emergency disaster response activities. To date, it hasn't worked well. If we are to keep it, it needs overhauled -- from top to bottom.

But if we expect FEMA to set aside the vestiges of the "cold war" mentality, and move to an "all-hazards" approach to emergency management, Congress needs to get its act together as well.

Over the years, the Congress has authorized 17 different grant programs for FEMA, each for a different kind of disaster.

But no Committee of Congress, outside of the Appropriations Committee, has asked if these authorized programs are what's really needed to tackle the risks our citizens face. We authorize many programs, but local communities don't have the flexibility to use federal funds to develop a real risk-based disaster response strategy.

And part of the reason no one in Congress has asked this question is that each Congressional Committee wants FEMA to emphasize their program above all others. What results is that none of these programs work well. Even the National Academy of Public Administration agreed on this point in a recent report done at our Subcommittee's request.

EPA has a very similar problem. And I am sympathetic to the interests of the authorization committees here because I served on the Energy and Commerce Committee in the House.

I cosponsored everything with Henry Waxman that had the word "clean" in it. I supported Jim Florio on everything that used the word "toxic". And I stood with John Dingell on everything at EPA that needed "oversight and investigation".

But there are simply too many committees and subcommittees that have a piece of EPA's jurisdiction. EPA now has 17 major grant programs and a host of smaller ones. We authorize the Clean Air Act, and estimate how much it will cost EPA. But no one factors in the demands from other mandates and other programs -- whether it's Superfund or the Safe Drinking Water Act. So the agency stretches its resources to meet an increasing number of mandates.

For two years we have been after EPA to correct widespread contract mismanagement at EPA. And we learned about it only after a series of GAO and IG reports -- because no one authorization committee was looking at how well the agency's run.

Both FEMA and EPA need a single authorization committee. And within that authorization committee, I would urge you to make sure that the subcommittee alignment is designed to balance the demands on either agency's people and resources.

I know that the Appropriations Committees, as the quiet guardians of the federal purse, will work with you in that effort.

The President has proposed an initiative to reinvent government -- to make it more entrepreneurial and efficient. Consolidating the Congressional authorization process for FEMA, EPA and NSF would be a step towards helping the President meet that goal.

Statement of
The Honorable William F. Clinger, Jr.
Before the Joint Committee on the Organization of Congress
Thursday, March 18, 1993
Room SC-5, The Capitol

Mr. Chairman and Members, I appreciate having this opportunity to appear before the Joint Committee this morning to discuss budget process reform, specifically capital budgeting.

Before getting into the capital budgeting proposal itself, I want to share with you my views about the current budget process, which are very simple: it doesn't work; its a very crude instrument, and does not serve Congress or the American people at all well. I think the fact that this Committee included budget reform as a part of the agenda is a testament to that reality.

I also think the view that the budget process is sorely lacking is shared by all Members, regardless of whether they sit on an authorization, appropriations, or budget committee. Most every Member I talk to about budgeting has strongly-held, fundamental complaints about the process; they don't have confidence that it works in a rational manner; and it absolutely defies describing to constituents.

Every two or three years, it seems Congress attempts to reorder the federal government's spending priorities and to control the deficit by implementing a major spending reform bill; recall Gramm-Latta 1, Gramm-Latta 2, the Budget Reform Acts of 1988 and 1990, and in the interim several budget reconciliation acts. But the fact of the matter is that we have not reduced the deficit — it continues to rise.

While I support Congress' efforts to control spending, I am always frustrated by the process by which we make our budget decisions and the lack of information at our disposal. Cuts are displayed either agency by agency, function by function, or program by program, but generally there is no distinction about the substance of the cuts, whether they're reductions in investment spending such as new highways, or cuts in operational expenses of an agency. For example, one year we cut the highway program and the next year we fully fund it. One year we cut entitlements and the next year we freeze them. Why? There's no rationale apparent to addressing overall budgeting policy.

When the House is fashioning budget resolutions, as we're doing now, there is a similar lack of information about the nature of our spending proposals; that is, to what degree are we investing in assets, consumables, operating expenses, and human enterprise programs? The current budget process makes no distinction.

At the risk of drawing a trite analogy, if the federal government is a business, and we are its board of directors, and if our business is losing money, prudence would dictate that we make cuts to insure the business' survival, and do it in an fashion that is least offensive to our customers. We don't have the information to do that job today. Rather, we're given one figure that subsumes all operating and investment expenses, and told to cut to meet a bottom line number without having the ability to distinguish between utility bills, marketing programs, capital improvements, and the like.

Capital budgeting as a concept is very, very simple. It is nothing more than a planning tool used by business leaders and many state and local officials to help prioritize spending for the future. A capital budget, properly implemented, would improve the budget as a reporting, control, accounting, priority-setting and fiscal-policy tool. Implicit in this exercise is the notion that capital is a limited resource, and as planners, there is a need to develop the best possible strategy to insure the enterprise can meet future demands, whatever they might be.

Capital budgeting segregates spending into two discrete categories; spending on operating expenses, and spending on assets. The latter activity is oftentimes referred to as investing, as money spent to build a highway, for example, is converted from cash into another asset that has real value.

Capital budgeting will help all of us approach the job of planning for the future in a much more informed manner. It is not a gimmick and does not attempt to gloss over one federal activity at the expense of another. Capital budgeting simply seeks to identify two very fundamental and distinct economic activities -- spending on assets, and spending on operations.

I have introduced bills over the past several Congresses that would have required the Administration to present its budget proposal to Congress using capital budgeting, and that it be displayed within the unified budget. I reintroduced the bill in this Congress as well as a separate bill that frankly is a fall-back position, calling for the creation of a Commission to study capital budgeting and make recommendations about its implementation.

I've learned over the years that there Members who oppose capital budgeting, and even more who don't understand it. For those who oppose it, I honestly believe their misgivings are not valid. I sincerely believe capital budgeting will vastly improve Congress' ability to shape and manage the federal budget, and to spend -- or cut -- in a more rational fashion.

Thank you.

BOB WISE
2D DISTRICT WEST VIRGINIA

COMMITTEES
COMMITTEE ON THE BUDGET
SELECT COMMITTEE ON AGING
COMMITTEE ON
PUBLIC WORKS AND
TRANSPORTATION
CHAIRMAN, SUBCOMMITTEE
ON ECONOMIC DEVELOPMENT

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STATEMENT OF CONGRESSMAN BOB WISE
OF WEST VIRGINIA
BEFORE
THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS
MARCH 18, 1993

Mr. Chairman, Members of the Committee, I want to thank you for the opportunity to testify before you today about budget reform and the importance of moving toward a federal capital budget.

But before I begin, let me commend this Committee for focusing on budget reform as a part of comprehensive Congressional reform. As a member of the House Budget Committee and a veteran of five Committee Budget Resolutions, I have come to believe that many of the budget problems facing this Congress, particularly the shift in recent years from public investment toward consumption spending, have as much to do with the budget process as with decisions made -- or not made -- by the Congress.

Perhaps the greatest, and to me the most mystifying, problem with the current system is the fact that the federal government's unified budget makes no distinction between money spent on

investments and money spent for consumption. Highways, federal salaries, health benefits and foreign aid, which are all examples of federal programs that are paid for through taxes and borrowing, are all accounted for in basically the same way. But all borrowing is not created equal. Borrowing for physical infrastructure can be justified if it pays for itself in the long-run by increasing the nation's wealth and capacity for future economic expansion. Borrowing to meet the day-to-day expenses of government cannot.

Two weeks ago I reintroduced legislation that would divide the federal unified budget into an operating budget and a capital budget. Under my bill the operating budget would include all programs that meet the immediate obligations of running the government. The capital budget would include long-term, tangible investments in infrastructure. This legislation would direct the operating budget to be balanced but would allow the federal government to borrow money for certain investments in infrastructure that increase the national wealth and contribute to economic growth. Money borrowed for those infrastructure investments would be paid back over the life of the road, bridge, sewer system or other infrastructure investment. Seventeen of our colleagues in the House from both parties have cosponsored this budget reform legislation.

The concept of a federal capital budget is not new. The budget was expanded in the 1950s to include information on investment spending. Reform in the 1980s required even more investment information in the unified budget. Many other industrialized countries employ a capital budget, and businesses and most state and local governments have investment budgets that separate long-term capital investments from year-to-year operating costs. Individuals and groups as diverse as former OMB Director Richard Darman, the General Accounting Office and the Progressive Policy Institute have endorsed distinguishing between investment and consumption spending in the budget. As a recent GAO report on the harmful effects of the deficit points out, "a new [budget] decision-making framework is needed, one in which the choice between consumption and investment spending is highlighted throughout the decision process, rather than being displayed for information purposes after the fact."

Businesses know the difference between borrowing to consume and borrowing to invest. Borrowing is a smart move when the money is used to finance productive investments that help a business modernize its equipment, expand and become more profitable. But borrowing money to pay salaries or executive bonuses or to send employees to expensive conferences rather than to modernize would be foolish.

I believe the federal government should make this same distinction in its budget. By borrowing for current expenses the government is asking future generations of taxpayers to pay for the cost of running the government today. But borrowing to invest is different. If the government passes part of the cost of building a road to future taxpayers, it also gives them something in return -- a new highway that will encourage economic development, facilitate commerce and increase economic growth for years to come.

Instituting a capital budget would force policy makers to decide whether or not each investment is worth borrowing money to finance. In addition, the public would benefit from knowing that the government's current costs are being paid for and that any borrowing is for investments in the future rather than paying for the present and saddling future generations with bad debt.

All of us agree that the U.S. must make investments that are critical to future economic growth but that the budget deficit must also be reduced. Rather than going from crisis to crisis, the federal government should have an institutionalized system of long-term investment planning. Adopting a federal capital budget would provide such a mechanism.

Mr. Chairman, Members of the Committee, this is a time of fundamental change in the way government serves the people. In order to be more responsive to taxpayers' needs and more responsible with taxpayers' money, I believe the federal government should reform its budgeting to distinguish between consumption and investment. Adopting a capital budget would begin to effect this critical change and I hope you will seriously examine and ultimately endorse this important budget reform.

The Capital Budgeting Act of 1993
Rep. Bob Wise

Section-by-section summary

Section I: Short Title

Section II: Statement of Findings and Purpose

Section III: Establishes Capital and Operating Budgets

-- Requires that the budget submitted by the President be a unified budget comprised of an operating budget and a capital budget.

-- Limits the capital budget to major activities, projects and programs that support the acquisition, construction, alteration, and rehabilitation of physical infrastructure that produces services or benefits for more than five years and has an initial cost of at least \$500,000.

-- Restricts expenditures from the capital budget to: roadways and bridges; airports and airway facilities; mass transportation systems; waste water treatment systems; water distribution delivery and related systems; water resource projects; medical facilities; resource recovery facilities; public structures; space and communication facilities and strategic petroleum reserves and mineral stockpiles.

Section 4: Review of capital expenditures

-- Requires the Comptroller General to review and report to Congress to ensure that those investments included in the capital budget adhere to the criteria set out in this act.

Section 5: Balancing the operating budget

-- Requires the Budget Committee to submit to the House proposed legislation to establish additional deficit targets that require the eventual elimination of deficits in the operating budget.

Section 6: Evaluation of capital investments

-- Directs the Government Operations Committee to report legislation directing the Comptroller General to evaluate the value and usefulness of actual and proposed investments in the capital budget.

Section 7: Implementation of capital budget

-- Directs the Rules Committee to report legislation establishing rules to enforce this act.

Section 8: Reports to the House and the Senate

-- Transportation: Requires the Secretary of Transportation to report on capital investments in roadways and bridges, airports and airway facilities and mass transportation systems.

-- Water pollution: Requires the Administrator of the Environmental Protection Agency to report on capital investments associated with waste water treatment, water distribution delivery systems and related facilities.

-- Water resources: Requires the Assistant Secretary of the Army for Civil Works to report on capital investments associated with water resource projects.

-- Public buildings: Requires the Administrator of the General Services Administration to report on capital investments associated with public buildings.

CONGRESSMAN JIM KOLBE
TESTIMONY BEFORE THE JOINT COMMITTEE ON THE
ORGANIZATION OF CONGRESS
MARCH 18, 1993

Mr. Chairman, thank you for providing me with this opportunity to offer suggestions on how to reorganize this institution to better serve the interests of the American people. These hearings are timely. They are necessary. And I believe they will lead to substantive and thoughtful reform of Congress.

The issue that I bring before the Committee today involves the Congressional Budget Act of 1974 and a pattern of disregard for its spending limits and deadlines as seen through the increased use of waivers issued by the Rules Committee. Let me explain.

As background, the Congressional Budget Act of 1974, which established the congressional budget process, set forth certain requirements for action on budget legislation. These requirements established conditions for the adoption of the budget resolution, provided for the timing of congressional action on spending and revenue legislation, and ensured that this action was consistent with levels established in the budget resolution. These guidelines are enforced through so-called "points of order" that can be raised by Members if these requirements are not complied with.

Sadly, the House has found a way to circumvent these budget enforcement requirements, through the use of waivers. These waivers are found in rules that guide a bill's consideration on the House floor. More and more we are hearing this phrase inserted in House rules; "...All points of order against the Congressional Budget Act are waived"...In other words, if a Member wants to object to a bill's consideration because it violates the Congressional Budget Act, he can't do it because of the waiver. If a simple majority vote approves a rule that includes this waiver, there is no recourse to stop violations of the Budget Act.

What I am proposing today to the Joint Committee is that we make it more difficult to evade budget discipline by requiring a "supermajority" or three-fifths vote for waiver approval rather than the existing simple majority approval.

Since 1985, the Senate has imposed a "supermajority" vote requirement to waive Congressional Budget Act points of order upon itself and has actually toughened budget enforcement by now requiring a three-fifths vote to appeal the ruling of the Chair on a point of order raised against the Budget Act. Why doesn't the House place similar procedural restraints upon itself?

Each body has a constitutional right to adopt its own rules. The Senate did it. I am suggesting that the House show as much fiscal discipline by requiring the same three-fifths vote requirement on Rules that waive Congressional Budget Act points of order.

The graph that I have included in my testimony illustrates the alarming trend of the increased use of waivers. Sadly, it can be argued that a supermajority Budget Act waiver requirement may be obsolete because the Rules Committee has resorted to "blanket" waivers, waivers covering a much broader scope. With a blanket waiver, they disregard more than just the Congressional Budget Act. Mr. Chairman, this may very well need further consideration at a later date when you consider Rules reform. And I will be happy to return then to address this larger issue.

But today, I will ask for your consideration of my proposal to require a supermajority vote to waive Congressional Budget Act points of order. We need to restore some sense of structural budget discipline in the House.

Thank you and I will respond to any questions you may have.

Table 8.
BUDGET ACT WAIVERS
REPORTED IN HOUSE
96TH - 102ND CONGRESS

§ Waived	96th	97th	98th	99th	100th	101st	102nd
302(a) ¹	0	0	0	0	1	0	0
302(c) ²	0	0	0	2	5	3	0
302(f) ³	0	0	0	19	11	12	5
303(a) ⁴	9	12	48	25	2	5	1
305(a) ⁵	0	1	1	1	1	1	1
311 ⁶	5	15	12	21	4	4	1
401(a) ⁷	23	21	6	5	1	0	0
401(b) ⁸	13	7	10	6	1	2	0
402(a) ⁹	77	42	54	27	N/A	N/A	0
402 ¹⁰	N/A	N/A	N/A	N/A	0	0	1
Budget Waivers	127	98	133	106	37	27	9
Blanket Waivers¹¹	0	4	4	28	47	63	78
Total Waivers	127	102	137	134	84	90	87
Total Rules Reported	259	152	190	164	165	161	185
Waivers as % of Total Rules	49%	67%	72%	82%	51%	56%	47%
Waivers less §402(a)¹²	50	60	83	107	84	90	87
Non §402(a) waivers as % of Rules	19%	40%	44%	65%	51%	56%	47%

Sources: Legislative Calendar, Committee on Rules, 96th-101st Congresses; Survey of Activities, Committee on Rules, 96th-101st Congresses; "Notice of Action Taken", Committee on Rules, 102nd Congress, through October 9, 1992 (final adjournment).

ENDNOTES

1. Sec. 302(a) requires that the joint explanatory statement on a budget resolution conference report include an allocation by committee of outlays, and new budget-, entitlement-, and credit authority.
2. Sec. 302(c) prohibits the consideration of any legislation reported from a committee which has not filed its section 302(b) suballocation.
3. Sec. 302(f) prohibits the consideration of legislation which exceeds a committee's sec. 302(b) suballocation for discretionary new budget authority, new entitlement authority, or new credit authority.
4. Sec. 303(a) prohibits the consideration of legislation providing new budget authority, new entitlement authority, new credit authority, or a change in revenues or public debt before the budget resolution for that year is adopted. [Note: This provision was modified with the enactment of Gramm-Rudman-Hollings I, to exempt from the point of order any appropriation bill considered in the House after May 15th, even though a final budget resolution is not in place (P.L. 99-177, effective Dec. 15, 1985).]
5. Sec. 305(a) prohibits consideration of a budget resolution prior to the sixth day after it is reported.
6. Sec. 311 prohibits consideration of any legislation which would exceed the outlay ceiling or revenue floor contained in the most recent budget resolution.
7. Sec. 401(a) prohibits consideration of legislation providing new contract or borrowing authority not provided for in appropriations act.
8. Sec. 401(b) prohibits the consideration of legislation providing new entitlement authority which becomes effective during the fiscal year which ends in the calendar year in which the bill is reported.
9. Sec. 402(a) prohibits the consideration of any bill authorizing new budget authority for a fiscal year if not reported on or before May 15th preceding the beginning of such fiscal year. [Note: This provision was repealed with the enactment of Gramm-Rudman-Hollings I on Dec. 15, 1985.]
10. Sec. 402 prohibits legislation containing new credit authority except as provided in appropriations acts.
11. Blanket waivers counted here are those provision in a rule which waive all points of order against a bill or committee amendment in the nature of a substitute made in order as original text for amendment purposes. Not only do blanket waivers set aside all standing House rules, but all provisions of the Budget Act as well.
12. To provide a constant for comparison purposes, sec. 402(a) waivers have been subtracted from total waivers here because the section was repealed on Dec. 15, 1985 (see #9 above).

103D CONGRESS
1ST SESSION

H. R. 1105

IN THE HOUSE OF REPRESENTATIVES

Mr. KOLBE introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Congressional Budget Act of 1974 to require a three-fifths vote in the House of Representatives to waive any point of order under this Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 904(c) of the Congressional Budget Act of
4 1974 is amended by adding at the end the following new
5 sentence: "Any point of order set forth in title III, IV,
6 or VI may be waived or suspended in the House of Rep-
7 resentatives only by the affirmative vote of three-fifths of
8 the Members voting, a quorum being present."

WHAT WOULD H.R. 1105 DO?

This legislation would NOT allow the consideration of an appropriation bill until the Appropriations Committee filed its subcommittee spending totals or 602(b) allocations -- UNLESS a supermajority vote approved it.

This bill would NOT allow the consideration of authorizing or appropriating legislation that exceeds its five year aggregate spending totals -- UNLESS a supermajority approved it.

This bill would NOT allow the consideration of spending or tax legislation before Congress has adopted a Budget Resolution -- UNLESS a supermajority vote approved it.

This bill would say NO to considering legislation that would breach the aggregate spending or revenue levels in all fiscal years covered in the Budget Resolution -- UNLESS a supermajority vote approved it.

This bill would say NO to considering legislation that provides credit or contract authority which is not limited to amounts provided in appropriation acts -- UNLESS a supermajority vote approved it.

Finally, this bill would say NO to considering legislation that increased entitlement spending in the current fiscal year -- UNLESS a supermajority vote approved it.

A BIPARTISAN PLAN TO REFORM THE BUDGET PROCESS

TESTIMONY OF THE HONORABLE CHRISTOPHER COX

MEMBER OF CONGRESS FROM CALIFORNIA

BEFORE THE JOINT COMMITTEE ON THE

ORGANIZATION OF CONGRESS

MARCH 18, 1993

Mr. Chairman:

This Joint Committee was created to answer a crisis as grave as any our institution has faced in its history. Congress has forfeited the public trust. Congress habitually violates the deadlines and ceilings it established to regulate the way it prepares the annual federal budget. Congress has abdicated its control of most government spending. Every year Congress simply writes a blank check for welfare and other so-called "entitlements" it declares "uncontrollable."

Over the past 30 years, Congress has run up more than \$4 trillion in public debt. Within the next few days Congress will have to consider once again raising the legal limit on the federal government's indebtedness.

There is only one way that Congress can win back the trust that gives it legitimacy: We must accept fool-proof discipline in the way we spend other people's money.

I am here today to appeal to every one of you to transcend partisan habits, to put aside old ways of thinking and old ways of doing things.

The simple truth is this: The chronic failure to balance the budget is the inevitable result of a poorly designed congressional budget process. This process not only permits but actually encourages violation of the very laws designed to force rational choices among competing priorities. The process virtually guarantees wasteful spending and financial chaos. Any sincere effort at deficit reduction must be based on reform of our broken-down budget process.

Not least among the reasons that the system is subject to manipulation and abuse is that very few people understand how it works. Even within Congress itself, terms like "current services baseline," "section 302(b) allocation," and "undistributed offsetting receipts" often produce blank stares. The budget committees, whose members should have the incentive and opportunity to understand the process, are powerless to enforce the law. Indeed, President Clinton already has violated the budget law by failing to

submit his budget by the February 1 deadline.

We must adopt a new budget system worthy of the people's trust. It must be strong enough to withstand the wildest efforts of those who don't want to accept restraints on spending. It must be strong enough to survive the inevitable attempts to replace it with some less restrictive expedient. During the past several years, working as the co-chairman of the Task Force on Budget Process Reform, I have developed a comprehensive proposal for the tough reform we so urgently need.

The proposal is the Budget Process Reform Act. It currently is co-sponsored by more than 120 of our colleagues in both the House and the Senate. A distinguished member of this Committee, Senator Trent Lott of Mississippi, is the bill's principal sponsor in the Senate.

The hallmarks of our reform legislation are clarity, evenhandedness regarding the role of the President and Congress, and strict discipline. It is based on the premise that an effective budget process must do each of the following:

- o Be as simple as possible in concept and means of implementation, so that the process is clear and understandable to Congress and the public;
- o Encourage early consultation and cooperation between Congress and the President;
- o Produce decisions on overall budget levels early in the budgeting year;
- o Be evenhanded with respect to the President and the Congress, not giving either an advantage in dealing with the other or in establishing spending priorities;
- o Tie each individual spending decision to an overall, binding budget total;
- o Require explicit decisions on spending levels for all federal programs, not just those arbitrarily deemed "controllable;"
- o Prevent threatened shut-downs of the government;
- o Not raise difficult questions of constitutionality;
- o Contain a bias in favor a spending restraint that could be overcome only if both the President and the Congress wish to do so.

Here are the key features of the Budget Process Reform Act:

Budget First, Spending Second: This proposal would require that Congress enact a legally binding budget (in the form of a joint, rather than a concurrent resolution) by April 15 of each year. Until the budget is signed into law, no authorization or appropriations bill could come before either the House or the Senate floor, or before any committee. The budget would set ceilings on all federal spending (except Social Security and the interest on the debt) for the coming fiscal year.

One-Page Budget: The current budget system, in which the "budget" is so detailed that it resembles New York City's phone book. The Budget Process Reform Act calls for a budget that will fit on a single page--setting specified ceilings on government spending within the 19 summary categories currently used in the budget. It

is reasonable to ask Congress and the President early in the legislative session to agree at this high level of abstraction on how much the federal government should spend in the ensuing fiscal year.

The Act's requirements, if followed, will end the current chaos of the budget process. But experience has shown that Congress will seek ways to avoid--if not simply ignore and violate--any legal requirement aimed at promoting fiscal responsibility.

We must not slide down that road again. The people have lost patience with government waste and smooth-talking congressional deception. We must ensure that Congress will no longer be able to escape the discipline of a reformed budget process. That is why I have written into the Budget Process Reform Act a series of enforcement mechanisms which, in effect, lock the door on all the exits--and even deny Congress the tools to pick the locks.

The Two-Thirds Requirement: First, Congress would be permitted to enact spending legislation in excess of the budget ceilings only by a supermajority vote--two-thirds of both houses. The only way to adopt spending proposals by simple majority would be to authorize and appropriate within the ceilings of a duly enacted budget law.

No More Blank Checks: The Act will require Congress to determine the desired level of spending for each federal program except Social Security and interest on the debt. Open-ended "blank-check" appropriations--such as those for entitlement programs, which authorize the spending of "such sums as may be necessary"--would no longer be allowed. Instead, the one-page budget enacted by Congress would include ceilings for spending on these entitlement programs.

Line-Item Reduction: The Act also gives the President--in this case Bill Clinton--a tool which he called for during last fall's Presidential campaign. With respect to spending in excess of the budget ceilings, the President would be granted enhanced rescission authority--that is, authority to rescind the over-budget portion of any spending unless Congress were to enact legislation expressly disapproving the specific rescission. This "line-item reduction" authority is applicable only to the over-budget portion of the proposed spending. The President would also get the same authority to cut back any spending in excess of the previous year's levels in the event that Congress failed to adopt any budget at all.

Line-item reduction is actually preferable to a line-item veto. A veto gives the President the power to eliminate an entire category or program with the stroke of a pen. But a line-item rescission would give him the power to selectively reduce individual programs by a percentage, leaving intact that portion of the program which has been budgeted by Congress.

To maintain the integrity of congressional control over the legislative process, the Congressional Budget Office, not the Office of Management and Budget, would be the "scorekeeper" for determining whether particular authorization and appropriations measures are consistent with the budget ceilings.

No More Budget Act Waivers: In recent years, one of the most notorious ways that Congress has cheated the budget process is to "waive" the requirements of the 1974 Act. In fact, during the 102nd Congress, half of all rules adopted by the House waived the Budget Act.

Avoiding Government Shutdowns: Finally, the Act provides a safeguard against the contingency that Congress should fail by October 1, the beginning of the fiscal year, to complete action on appropriations for any program or activity. In that case, the previous year's funding level would automatically be reappropriated for the upcoming fiscal year. This automatic "continuing resolution" would apply to all spending, except for Social Security and interest. An added virtue of this sustaining mechanism is its bias in favor of spending restraint. If no action is taken, spending does not increase from year to year.

In summary, Mr. Chairman, today's system mocks the law. It perpetuates gridlock. It treats spending as "uncontrollable." And I believe the greatest scandal is: our system is designed to keep the taxpayers confused.

Through the Budget Process Reform Act, we will enforce the law. We will require cooperation between the President and Congress. We will bring entitlement programs under budget control. Above all, we will make the system clear and understandable to the people whose money we are spending.

This is a bipartisan plan. In preparing this legislation, we drew upon the experience and ideas of Democratic and Republican Administration officials, congressional leaders, and academic experts across the past seven decades.

Mr. Chairman, I believe Congress can do what it must do. We can win back the people's trust. I believe the time is coming when a majority in the Congress will recognize it must accept this kind of reform.

President Clinton's embrace of a line-item veto or enhanced rescission authority is encouraging to many of us who have long called for reform of the budget process. This Committee's recognition of the problem is an important first step in enacting such reorganization. It also appears that both the House Budget Committee and the Government Operations Committee--which has primary jurisdiction over budget process reform--are seriously interested in addressing this issue. Mr. Chairman, I look forward to continuing to work with the Committee on the urgent task of reforming the institution of the United States Congress.

Statement of Rep. Bill Orton
before the
Joint Committee on the Organization of Congress
March 18, 1993

Mr. Chairman, members of the committee, I appreciate the opportunity to appear before you today.

I am a relative newcomer to Congress, just starting my second term. Like most members of this body, I am very concerned about the \$ 300 billion plus budget deficits we are incurring. Yet, despite strong support in Congress and among the voters, real action on the deficit seems elusive.

After studying the issue and working through the budget and appropriations process, I have come to the conclusion that the current budget process is a major factor in handicapping our efforts to cut the deficit. H.R. 1138, my Comprehensive Budget Process Reform Act of 1993, reflects a number of changes I believe would improve our budget process and make it easier to achieve the deficit reduction that we all seem to support.

I have provided all members of the Committee with a short executive summary of H.R. 1138, as well as a copy of my statement on the floor of the House when I introduced this bill. I have also provided a copy of the two flow charts which I will be using to explain the difference between the current budget process and the process that would be in place if my bill were adopted.

Briefly, Section 1 includes a number of statutory provisions requiring submission and enactment of a balanced budget. It also provides an enforcement scheme which judges compliance with the balanced budget requirement not on projected budget deficits, but on actual budget deficits. This is a fundamental difference between my bill

and other balanced budget constitutional amendments or bills.

This is no small difference. According the Congressional Budget Office, in the period from fiscal year 1980 to 1993, the average difference between the projected deficit in the Congressional Budget Resolution and the actual deficit exceeded \$ 42 billion per year. Over this period, this translates into over a half trillion dollars of federal debt that can be traced to our overly optimistic projections.

That is why I believe that any balanced budget or deficit target enforcement must be based on actual, not projected deficits. Furthermore, Section 1 of my bill specifically calls on Congress and the President to work together to cut the deficit and to be held jointly accountable. This is an effort to move beyond the finger pointing that has characterized previous deficit reduction efforts.

The remainder of my bill deals with a number of budget process reforms, most of which you are generally quite familiar with in one form or another. My executive summary lists these provisions, noting where my proposals differ from the versions of other members.

Finally, I would like to offer my thoughts on more general changes with respect to Congress itself. I personally am frustrated by the frenzied pace of activity in the House. We are dealing with issues of great national importance. Yet, everyone in this body would admit that the norm is often hasty consideration of bills and amendments on the floor of the House, with little time for studied consideration of the details of these bills. For example, in the fall of 1991, the House was set to vote on the conference report of a major transportation bill whose details had barely been negotiated over the last 10 hours. In fact, there was not even a copy of the bill in the House chambers; a

staffer had to run over to the Senate to retrieve a copy before we voted on it. Similar horror stories apply to committee hearings and markups.

Overall, few in this body would dispute the fact that the current breakneck schedule of racing from one event to another is hardly conducive to oversight, deliberation, and good decision making. Instead, I believe we could be much more productive if we changed the way we allocate our time. For example, a better way to run the House might be as follows: The first two weeks of a month could include committee hearings and markups. Week 3 could be a plenary session -- including all floor business, debates and votes (with 5 minute votes). The final week could be a district work period. The cycle would then repeat itself.

In closing, I appreciate the opportunity to testify today, and look forward to any questions you may have.

COMPREHENSIVE BUDGET PROCESS REFORM ACT OF 1993
HR 1138
(Executive Summary)

Principal Sponsor: Bill Orton (Utah)

- Title I. BALANCED BUDGET WITH ENFORCEMENT**
MANDATORY CONSIDERATION OF PRESIDENT'S BUDGET
- Title II. BIENNIAL BUDGET**
- Title III. UNIFIED OPERATING AND CAPITAL BUDGET**
- Title IV. SUNSET AUTHORITY**
 Subtitle A - Reauthorization of Government Programs
 Subtitle B - Program Inventory
 Subtitle C - Program Reexamination
 Subtitle D - Tax Expenditures
 Subtitle E - Miscellaneous
- Title V. EXPEDITED RESCISSION AUTHORITY**
- Title VI. PERFORMANCE-BASED BUDGETING**
- Title VII. INCREMENTAL-BASED BUDGETING**

Title I

BALANCED BUDGET WITH ENFORCEMENT

PURPOSE: A significant cause of our enormous budget deficits is that attention is focused almost exclusively on budget projections, instead of on the level of deficits actually incurred. This allows the President and Congress to appear to be making progress on bringing down the deficit (ie., comparing a previous year's actual deficit to the following year's projected deficit), when in fact the deficit is often increasing.

A related problem is that any balanced budget amendment or Gramm-Rudman-type deficit target will probably fail due to manipulation of projected outlays and receipts.

To overcome these problems, this title provides that the budget must be balanced in actuality (not just in projection) by fiscal year 1998. If there is an actual deficit, Congress and the President are required to enact reconciliation legislation to make up for the shortfall or provide by law for waiver of the balanced budget requirement. If no such action is taken, sequestration takes place automatically in an amount equal to the actual deficit incurred in the previous fiscal year.

PROVISIONS:

1. **Requires the President to submit a balanced budget.**
2. **Requires both Congressional Budget Committees to report out a Concurrent Budget Resolution providing for a balanced budget.**
3. **Requires Congress to enact a Concurrent Budget Resolution providing for a balanced budget.**
3. **By September 1, OMB is required to provide Congress with a forecast of the projected deficit, if any, for the fiscal year expiring October 1st.**
4. **By October 15, OMB is required to provide Congress with a statement of the actual deficit, if any, of the prior fiscal year.**
5. **Any calculation of the actual deficit (as required under 4 above) does not include spending cuts or tax increases under 6 or 7 below, since such changes are actually a "repayment" of a prior year's deficit.**
6. **Repayment of Deficit. If actual outlays exceed actual receipts:**
 - A. **Congress must provide for repayment of the deficit through reconciliation legislation**
 - OR**
 - B. **Congress can waive this requirement of repayment through a majority (recorded) vote of both Houses. This waiver is subject to Presidential veto, with a 2/3 override provision.**
7. **LOOK-BACK ENFORCEMENT. If Congress adjourns for the session without providing for repayment of the deficit or waiving this requirement, there is an automatic across-the-board sequester of funds in an amount equal to the deficit. Only interest on the debt and social security payments are excluded from sequestration.**

**EFFECTIVE DATE OF THESE REQUIREMENTS IS 1998-1999 BIENNIUM
(ie., FY 1998 and FY 1999)**

Title I
MANDATORY CONSIDERATION OF PRESIDENT'S BUDGET

PURPOSE: The current system in which the Congress can declare the President's budget "dead-upon-arrival" discourages cooperation between the two branches in reducing the deficit. Requiring Congressional consideration of the President's budget should encourage a more consensus-driven budget process.

PROVISIONS:

- * The House and Senate are required to vote on a concurrent budget resolution which incorporates the President's budget submission, without substantive revision.
- * The House and Senate may consider amendments to this resolution, including whole substitution of their own budget resolutions.

Title II
BIENNIAL BUDGET

Similar to other biennial budget proposals.

Title III
UNIFIED OPERATING AND CAPITAL BUDGET

Similar to other capital budget proposals, except that this proposal redefines outlays for capital investments so that only the annual amortization charge is counted, not the entire cost of the capital investment.

Title V.
EXPEDITED RESCISSION AUTHORITY

Similar to other expedited rescission proposals, except that there are no limitations on the amount that the President can propose to rescind AND rescission proposals can be for all or any part of any line item.

Title VI.
PERFORMANCE-BASED BUDGETING

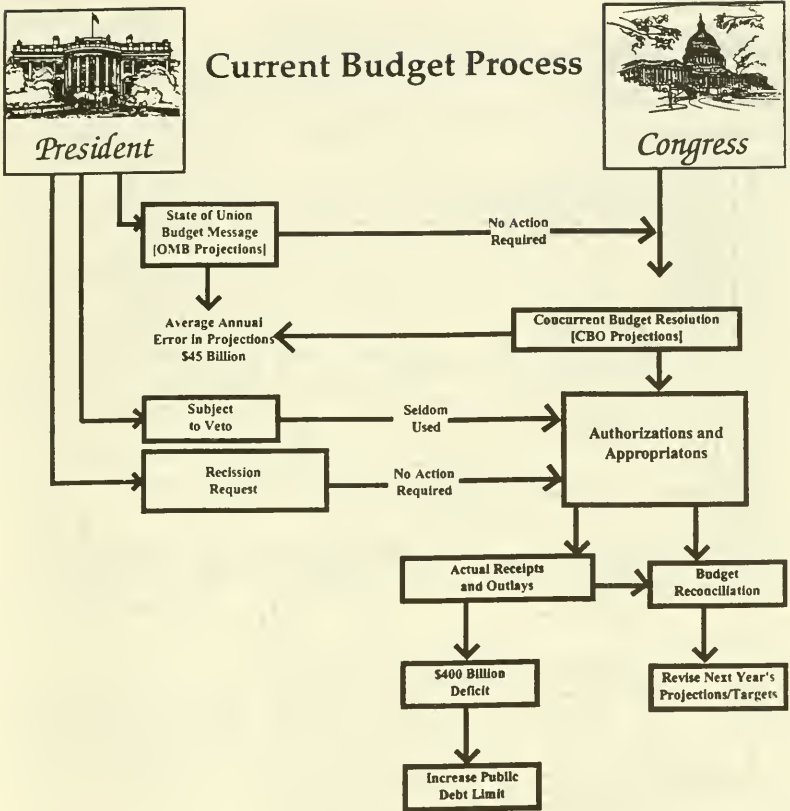
Similar to other performance-based budgeting proposals.

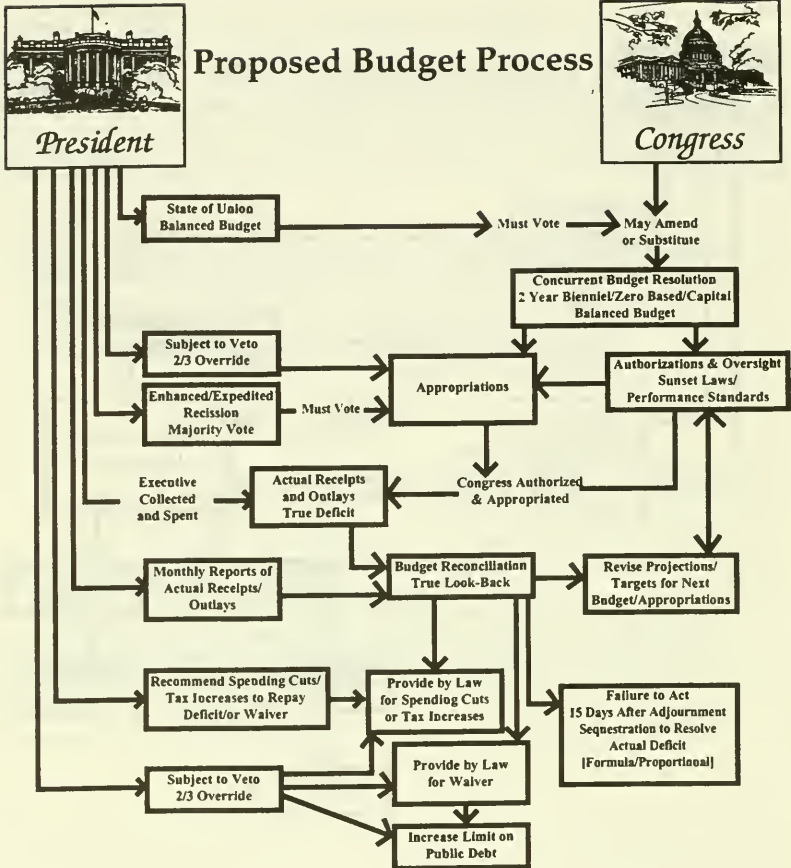
**Title VII.
INCREMENTAL-BASED BUDGETING**

PURPOSE: To eliminate a "current services" budgeting approach which assumes that programs are extended at prior year's funding levels, with adjustments for inflation and population growth. The Executive branch is required to formulate incremental budget plans, with decreasing levels of spending. These plans will serve as a menu for Presidential budget cutting.

PROVISIONS:

- * **Deletes provision that President submit a "current services" budget each year.**
- * **Requires formulation of budgets with lower spending levels.** OMB shall promulgate regulations requiring each department and agency to require that:
 - Officers and employees who submit budgets to the head of each department or agency must submit at least 2 incremental budgets, of which:
 - One incremental budget is required to reflect spending at least 5 % lower than the prior fiscal year.
 - A second budget is required to reflect spending at least 15 % lower than the prior fiscal year.
 - Each department or agency head must in turn submit at least one incremental budget to the Office of Management and Budget, with spending at least 10 % lower than the prior fiscal year.
 - [As before, the Office of Management and Budget (OMB) shall review the various departmental budgets, and after consultation with the President, shall submit one Budget to the Congress for its consideration.]
- * Whenever OMB makes its September 1st preliminary report on the deficit and that report projects a budget deficit for the year ending October 1st, the President is required by October 15 to submit a report to Congress that would either:
 - * **Recommend specific changes in outlays or revenues sufficient to eliminate that deficit, OR**
 - * **Recommend waiver of the requirement to eliminate that deficit.**





Mr. ORTON. Mr. Speaker, realizing the lateness of the hour this evening, I will be as brief as possible.

I do not take this opportunity often, but this evening is an important time to rise and take the floor of the House to explain a couple of bills which I have had the opportunity of filing today, which deal with the budget process, the legislative process. And I feel it important just to take a few minutes and explain these two matters, which I am filing today. And I believe this is a prime opportunity and an appropriate moment to focus for a few minutes on the budget process.

One week ago this evening, we came together in a Joint Session of Congress and listened to the President in his State of the Union Address present to us his plan for economic change, for renewal in America.

That plan, I believe, does, in fact, point us in a new direction, does, in fact, focus our attention on many, many areas, on changes which must take place in order to place our Nation back on the right track.

But as I have been here in this body over the last 2 years, I believe, in examining the process, the legislative process by which we budget and spend the taxpayers' money, I believe the system is broken. I believe that change is necessary in order to adopt the President's package, in order to adopt the majority or the minority's package, in order to adopt any package which makes real reform, which really changes, which really reduces the deficit. I believe that legislative process change is required.

Therefore, the two bills that I have filed today, the first is an amendment to the U.S. Constitution. I do not take lightly the amending of our Constitution. This great document has served us well for over 200 years, and it should be amended only when absolutely necessary. But I believe that time is now. And in fact, I have supported since I have arrived here the passage of a balanced budget amendment. However, this year I am filing a balanced budget amendment slightly different than the others which have been filed.

Let me just outline the simplicity of this particular amendment. There are only 6 sections of the amendment.

The first section simply states:

Total outlays of the United States for any fiscal year shall not exceed total receipts to the United States for that fiscal year.

That simple statement requires us to only spend that which we bring in.

Section 2 states:

Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

This says that the President must submit his budget request, which is in balance.

Section 3 says that:

For any fiscal year in which total outlays exceed actual receipts, the Congress shall provide, by law, for the repayment in the en-

ding fiscal year of such excess outlays. If Congress fails to provide by law for repayment, within 15 days after Congress adjourns to end a session, there shall be a sequestration of all outlays to eliminate a budget deficit.

This is the principal difference between this and other balanced budget amendments.

□ 2100

It says that we have to actually examine the receipts and expenditures at the end of the fiscal year, and if in fact we are in deficit for that previous fiscal year we must correct it. We have to provide by law for repayment, and if we do not a hard sequestration would balance the budget. We must also eliminate any constitutional question which there may have been over the sequestration of the Gramm-Rudman and subsequent budget enforcement legislation.

Section 4, in acknowledging that there may be times either of war, of depression, or whatever, and we do not state in the amendment itself a reason which may bring the Congress and the President to the conclusion that we cannot, for the good of the country, balance the budget in that particular fiscal year, section 4 states that "the provisions of this article may be waived for any fiscal year only if Congress provides by law by a majority of the whole number of each House, and such waiver shall be subject to a veto of the President."

That means that if the Congress wishes to waive the balanced budget requirement itself, it must override a veto of the President; that if in fact it is so detrimental to our economy or we could not function appropriately with national security, we must waive the balanced budget requirement, we could do so.

Section 5, simply in defining receipts and outlays, states that "total receipts shall include all receipts of the U.S. Government except those derived from borrowing." We cannot borrow our way out of the problem. "Total outlays shall include all outlays of the U.S. Government except for those for repayment of debt principal."

Finally, section 6 states that "this article shall take effect beginning with fiscal year 2000 or with the second fiscal year beginning after its ratification," whichever is later.

I personally believe that it is time, I believe that in order to place upon this Government, the Congress and the President, to place fiscal responsibility upon us, to force us to balance our own budget, I believe that it is necessary to require us to do so in that very document which creates and controls the operation of this Government, the Constitution.

Therefore, I would urge my colleagues to support and vote for this balanced budget amendment, which I believe does make the statement required but does not so restrict the Government from being able to act.

Now, there are many of my colleagues who would disagree with me who would say that we should not place into our Constitution such a fiscal provision. We have argued on the floor of this House in previous years, most recently last July, that in fact we could and should balance the budget by statute, and in fact that balanced budget amendment will not balance the budget. It only says in the Constitution that we must do it.

How do we do it? We must change the budget process by statute in order to provide the mechanism whereby we can balance the budget. Therefore, I do believe that an amendment is necessary, but even without a constitutional amendment the second bill which I am filing today would in fact provide the statutory framework, the process, the mechanism for arriving at the balanced budget itself.

I have prepared, in Ross Perot-type flow charts, an explanation of our current budget process, and to graphically illustrate the changes that this amendment would entail, a second flow chart to show the changes in red.

First of all, let us outline the current budget process which we in our Government are currently using to arrive at the money which we will appropriate and spend in any given fiscal year.

To start with, the President comes to this body in his State of the Union Message, addresses the body, and at that time or shortly thereafter submits to the Congress his budget request. That budget request is typically based upon projections set forth by the Office of Management and Budget. Those projections are developed within the executive branch.

When he submits that budget request to the Congress there is absolutely no action required by this or the other body of Congress on his budget request. We have our own budget process where in we developed a concurrent budget resolution. In order to develop the concurrent budget resolution we rely upon the—rather than the Office of Management and Budget, we rely upon the Congressional Budget Office.

Historically, if you will look over the past decade, the average of both of these different bodies or entities, analyzing the budget, they have averaged an error of \$45 billion annually in either over-estimated revenues or underestimated expenditures. We in Congress, once we ignore the President's budget and establish our own concurrent budget resolution, use that budget resolution for the most part to guide our authorizations and appropriations.

However, we oftentimes even waive the budget agreement itself or we waive the budget law, the Budget Enforcement Act, and we simply ignore our own budget to pass emergency spending bills which we pretend simply do not exist within the budget because it is an emergency.

The President, with regard to our budget process, since we oftentimes ignore his, the President is forced to use

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one of only two other resources which he has to counter what the Congress chooses to do in spending. He may veto an authorization or appropriation bill, but he must veto it in total. We have only 13 appropriation bills whereby we appropriate all the money for the operation of the Government, the appropriated funds. We do have unappropriated funds which we simply do not even deal with, for the most part, in our resolution process.

The President seldom uses this veto power for appropriations, although he has it. He has one other tool which he also seldom uses but is also somewhat ineffectual in that he can request a rescission of appropriated funds.

Like the budget, message that the President submits us, we have no requirement to act upon the President's rescission, and if we do not act within 45 days it simply goes away. We then, from appropriated money—the executive branch spends that money. Actual receipts and outlays historically have resulted in deficits growing higher and higher every year, between slightly over \$300 billion for this fiscal year, and our response to that is to turn around, as we will in March of this year, and vote to increase the limitation on public debt to allow the country to continue to borrow more and more money.

We now are over \$4 trillion of debt for our children and our grandchildren. We do go through a budget reconciliation process, but that process is not designed to determine what we did in actuality and fix it. That process is used to revise our next year's projections and targets for our concurrent budget resolution in the following year.

That is our current budget process. What the bill would do that I have filed today is outlined in this chart in red. Let me briefly go through these steps and then explain in somewhat more detail each of the specific titles or provisions of this legislation.

First of all, when the President submits his budget request this legislation would require that that budget be balanced in outlays and expenditures, or outlays and receipts. He submits a balanced budget request to the Congress. The other new part is we must vote on that budget request without substantial change.

□ 2110

The President deserves the vote. We do not have to adopt the President's budget request. We still would retain the authority to amend or substitute our own budget as we develop a concurrent budget resolution. But our concurrent budget resolution would also have to set forth a balanced budget wherein outlays do not exceed receipts.

There are several other changes that this bill would make to the process. It would shift from a 1-year cash budget to a 2-year biennial budget where we would have a 2-year cycle rather than a 1-year cycle. We would no longer operate and

et. We would create zero-based budgeting or incremental budgeting whereby we eliminate current services budget where you simply start with what we spent last year and add to it.

We would also, through the authorization and oversight process, establish sunset laws which would require us at least once every 10 years to analyze, oversee, and reauthorize all Federal programs. In order to make that analysis through the reauthorization or oversight process, we would also create what are called performance standards that would set forth criteria. It would set forth goals and criteria whereby we can judge those programs to determine whether they are effectively operating and whether or not we should reauthorize those.

From our budget resolution, therefore, we continue with an authorization and an appropriation process. There are some, by the way, and let me divert for one moment, who would suggest that we eliminate the appropriation process. That could be done under this bill. It is not eliminated in this bill because that creates a turf battle inside the House and the Senate in taking away power which Members of the House and the other body have acquired through their position and seniority. So rather than fighting that battle, this process leaves the appropriation committees intact, although under this process it would not be necessary to continue a separate appropriation process. The authorization and oversight process could in fact appropriate the money as well. The appropriation process would still be subject to a veto by the President with the requirement of a two-thirds override.

But this legislation would create another new provision, enhanced or expedited rescission for the President. Many people have called for a line-item veto. I, among others, believe that a line-item veto would be unconstitutional as currently considered. I also am concerned that a line-item veto as such may in fact shift too much of the balance of power, the power of the purse, from the Congress where the Constitution places it to the President. Therefore, we have sought to find an alternative which would be as effective but still be constitutional.

The alternative we selected is the expedited rescission process. The difference between this and the current rescission process is that the President could line item any portion within the appropriations bills and request a specific rescission of that item, any portion of it or all of it, send it back to us, and we would be required to vote on that rescission request, each separate rescission request. That would give the President the opportunity to line item those areas of pork, those areas of inefficient spending, send it back to us, and we would have to stand up and cast our vote in favor of continuing to pay for the individual who is paid \$75,000 a year to watch catsup run down a board. So this would effectively eliminate

those kinds of pork barrel and inefficient programs.

At this point there are some of significant changes, and those changes by the way, are substantive changes to the process which provides us the mechanisms to analyze and evaluate most appropriate areas. We have a very difficult decision in this government and that is to determine how to spend very scarce resources. What is the highest priority for those scarce resources? That is what these provisions are designed for, to allow us the mechanism to set those priorities.

Assuming that we do not properly estimate our income and our outlays, we find that at the end of the year, that our total receipts and outlays have created a real deficit, what do we do? That brings the President and the Congress together in resolving that deficit through true look-back and real budget reconciliation. The President, through the OMB, would submit to us on a regular basis reports of actual receipts and outlays throughout the current operation of the fiscal year. Using that information, we will know at any given period of time whether we are ahead or behind those projected revenues and outlays or outlays and income. So we will have an idea as we go what the deficit is. It does not occur all at once. October 1 when we find out we spend more than we brought in.

What happens if we do spend more than we brought in? First of all, the President is required under this new statutory scheme to recommend to the Congress where to cut additional spending or where to raise revenues in order to resolve that actual deficit for the fiscal year which just ended. So he submits his recommendations. Or the President may say golly, we are in a war, or we are in a depression, or for some reason we cannot balance the budget; therefore, I recommend that you, Congress, waive the requirement to balance the budget. So the President would lay on the table to us his recommendation of whether you cut additional spending, you raise additional taxes, or you waive the requirement.

We would be required in Congress to provide, by law, for either spending cuts or tax increases to resolve that true budget deficit. That law, if we do something the President does not agree with, that law would be subject to a Presidential veto. In other words, we are going to have to vote on it, the other body is going to have to vote on it, and the President is going to have to sign it. Or, we can provide by law for a waiver of this statutory requirement, which again is subject to a veto by the President. If he disagrees, if he says no, do not waive that requirement. I recommend you cut additional spending here or raise revenues there, he can veto it, and we would have to override that veto by a two-thirds majority. So again it brings the President and the Congress together in identifying how to provide for a repayment of that deficit, either through cuts or taxes or ex-

empting from a waiver. If we exempt ourselves and say we will waive it, then and only then do we get to an increase of the public debt limitation.

Finally, if in fact, as many of the people out there believe, that this city is in gridlock, that this government is in gridlock, that we cannot act, that they simply say it is too hard for us to agree, we cannot make these tough choices, if that occurs and we decide to go home without either resolving the deficit through additional cuts or taxes, or waiving it based upon some national emergency criteria, we would then face a sequester. Fifteen days after we adjourn there would be a hard cut, a hard sequester to cover the amount by which we exceeded in expenditures the revenues that we brought in in that prior fiscal year.

□ 2120

That is the outline. Let me briefly explain several of these specific provisions beginning with the budget enforcement which we have just spoken about. A significant cause of our enormous budget deficit is that attention is focused almost exclusively on budget projections instead of the level of deficits actually incurred. This allows the President and Congress to appear to be making progress on bringing down the deficit by looking at previous years' expenditures, by rosy forecasts and scenarios of next year's revenues when, in fact, the deficit continues to increase year after year.

A related problem is that any balanced-budget amendment or Gramm-Rudman type deficit target will probably fall due to manipulation of projected outlays and receipts. If you do not have true reconciliation with an enforcement mechanism.

To overcome these problems, title I of this bill provides that the budget must be balanced in actuality, not just in the projection, by fiscal year 2000. If there is an actual deficit, Congress and the President are required to enact reconciliation legislation to make up for the shortfall or provide by law for a waiver of the balanced budget requirement.

If no such action is taken, then sequestration takes place automatically in an amount to equal the actual deficit incurred in the previous fiscal year. This is the section of the bill which requires the President to submit a balanced budget, requires the Congress to enact a concurrent budget resolution providing for a balanced budget, requires the Office of Management and Budget to give us statements of monthly or quarterly projections of actual receipts and outlays, and a statement of the actual deficit at the end of the fiscal year, and requires for a repayment through either cuts in spending or tax increases through the reconciliation process or a waiver, both of which are subject to Presidential veto.

This lookback enforcement, backed up by the hard sequester, would, indeed provide us the mechanism necessary to

make those hard choices and to actually balance the budget.

Now, the second title of the bill dealing with biennial budgets deals with the problem wherein our annual budget and appropriation process is unduly repetitive and so dominates congressional time and energy that insufficient attention is paid to authorization and oversight functions. By use of a biennial budget, a 2-year budget, we would overcome much of this problem. Confining budget and appropriations actions to the first term of Congress would encourage greater long-term budget planning and would allow more time for a thorough congressional reevaluation of the effectiveness of Federal programs and agencies.

Midcourse tax and spending corrections are allowed in the second fiscal year to adapt to changing economic and policy conditions. This also helps us eliminate the year-end binger spending which has become so prevalent throughout Federal agencies where, at the end of the fiscal year, you have to spend everything in your budget because next year we are starting fresh with what you spent last year plus, and this, combined with our incremental budgeting, would eliminate that binger spending. So this is the title of the bill that provides for a 2-year budget cycle, the biennium.

During the first session of Congress in that 2-year cycle, Congress receives the President's budget suggestions. They enact a concurrent budget resolution. They enact all 13 appropriation bills, and they complete reconciliation legislation that year. The budget resolution and appropriation bills are adopted for a 2-year period of time, and during the second session of Congress, the Congress would enact all necessary reauthorization legislation, and here we will incorporate the sunset laws that we get to in a moment.

They would conduct oversight hearings. They would also revise the congressional budget resolution, if necessary, and would be allowed to pass supplemental appropriations and rescissions in order to truly make the best decisions in each fiscal year so that at the end of the biennium we actually have a balanced budget.

Now, the third title of this bill is the title which creates a unified operating and capital budget. Adoption of a capital budgeting requirement would allow budgeting and appropriations decisions to reflect more accurately the long-term value of capital expenditures. It would also promote more efficient lease-versus-purchase decisions for capital items by requiring a net-present-value comparison between the options of leasing equipment or real property and acquiring that equipment or real property. So this is the title of the bill which provides for a unified budget consisting of an operating and capital budget.

Those budgets would be presented separately for total funds, Federal funds, and trust funds. It would define

capital and physical assets, and it creates an asset consumption charge which is equal to the cost of the asset allocated out over the useful life of the asset. This simply is amortizing the cost of assets with a useful life more than the fiscal year, allocating that cost over the actual useful life.

Outlays for capital assets in this balanced budget requirement would be calculated by using only the asset consumption charge and an allocated portion of the net Federal debt for the acquisition of that asset. This simply acknowledges the typical budgeting process that every home uses. You do not go out and buy a house for cash. You mortgage your home, and then you budget into your monthly payments the cost of paying off that mortgage which includes both the cost of the principal that you borrowed and the interest attributed to that particular month or year. This would do the same thing in our budget.

Each department would be required to analyze the efficiency of leasing or purchasing all proposed real estate and equipment capital expenditures over \$10 million, again, designed to help us both account more appropriately for expenditures of funds for assets that last more than 1 year, more than 3 years actually, and also to more appropriately determine whether to acquire by purchase or simply lease those very expensive long-term assets.

In title IV, we create sunset authority to provide for automatic congressional review at least once every 10 years of most Government spending programs. It would also provide for mandatory reauthorization of major tax expenditures at least once every 10 years. The goal is determination of obsolete or underperforming programs. This is the section where we require each Government program to be reauthorized at least once every 10 years, and we provide an exception only for interest on the debt. We cannot avoid that, the administration of justice, which we need to continue to ensure justice and the administration of justice, the third body of government, and payments of IRS refunds.

This sunset authority would limit authorization periods for any program to 10 years and would bar appropriation of any program which has not been reauthorized during the reauthorization cycle.

It sets up a specified schedule of sunset dates so that in the second year of each biennium we would be conducting our authorization and oversight activities wherein we would be looking at each area of Government spending to determine whether or not it justifies reauthorization. This also requires us not only to look at spending programs but tax-expenditure programs such as investment tax credit, et cetera, which are oftentimes made permanent in the code but oftentimes permanent expenditures are difficult to analyze the continued effectiveness.

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□ 2130

Therefore we would require an inventory of all tax expenditures with a cost of at least \$1 billion and require reauthorization of those expenditures at least once every 10 years. Title V deals with the expedited rescission authority to provide a new congressional procedure for handling Presidential rescission requests. This forces Congress to take an affirmative vote on each Presidential spending rescission request within a specified timetable. It requires a separate vote on each item of proposed Presidential rescission.

As a result, individual spending items are more likely to be considered on their merit instead of being lumped together with a broad appropriations bill. At the same time, this approach avoids the minority rule which would result from a line-item veto and a two-thirds' override provision.

This title allows the President to propose rescissions of specific spending items within appropriation bills. Each such request may be for all or any part of any budget authority approved in an appropriation bill. The President would be required to submit any such rescission request within 10 days of signing an appropriation bill. Each rescission request would require a separate message from the President. Within 10 days, each rescission request would be required to be reported out of the Appropriations Committee of the House where that bill initiated. Within 10 days after it came out of committee, a final floor vote would be required on each rescission request.

If approved by the House of Congress wherein that particular bill originated, the rescission request would be referred to the other House, where you would follow the same procedure, and amendments to Presidential rescission requests would be prohibited. I believe this would accomplish the same beneficial purposes of the line-item veto without the constitutional questions and without the supermajority and, therefore, the minority rule on spending issues.

Title VI requires performance based budgeting. With increasing pressure to cut spending, it is critical to evaluate the success of existing programs to determine which could be most easily eliminated. This title provides for the establishment and evaluation of performance standards and goals for expenditures, including tax expenditures, in the Federal budget to be prepared by the executive branch.

OMB would be required to promulgate regulations requiring each department and agency to establish a performance standard and goals for each major expenditure category. That plan would include the establishment of major expenditure categories, the establishment of performance indicators to be used to define the measure of outputs and of product services, the results of such expenditures, to establish performance standards and goals to be the measure of specific services

or product to be achieved or produced in that expenditure; and then compare actual program results with original performance standards and goals to determine the effectiveness and efficiency of that particular program.

By December 31 of each year, each department or agency head would submit a report to the President and Congress on program performance for the previous year. The Office of Management and Budget would also be required to prepare a plan and report, as outlined above, for all tax expenditures at an annual cost of over \$1 billion.

Finally, the last title of this bill, title VII, creates incremental-based budgeting, to eliminate a current-services budget approach which assumes that programs are extended at prior years' funding levels plus an adjustment for inflation and population growth, and any expansion of the program that we choose to allow, the executive branch would be required to formulate incremental budget plans with decreasing levels of spending. These plans will serve as a menu for Presidential budget cutting.

This provision deletes the provision that requires the President to submit a current-services budget each year. In the alternative, it would require the formulation of budgets with lower—that is right, actual lower—spending levels.

Officers and employees who submit budgets to the head of each department or agency would be required to submit at least two incremental budgets, of which one incremental budget would reflect a spending cut of at least 5 percent lower than the prior fiscal year. The other, second, budget required to be submitted to that agency head would reflect spending cuts of at least 15 percent lower than the prior fiscal year.

Then each department head or agency head would be required to submit at least one incremental budget to the Office of Management and Budget, with spending at least 10 percent lower than the previous fiscal year.

As before and currently, the Office of Management and Budget would review various departmental budgets and, after consultation with the President, would submit one budget to the Congress for its consideration.

Whenever OMB makes its first preliminary report that we would have a deficit in that fiscal year, then the President, by October 15, would have to submit to Congress a report that would either recommend specific changes in outlays or revenues or recommend a waiver. The way he generates the information necessary to budget in the first place and to recommend spending cuts would be to look to these incremental budgets from each agency, from each department, wherein they have identified, if they had to cut, where would they cut spending.

This is what a business, this is what General Motors, Ford Motor, or ABC Electronic would do if they were spend-

ing more than they are bringing every year.

In summary, the legislation that I have filed today both changes and defines the process, first by a statement in the Constitution requiring us to balance the budget and, second, an actual budget process reform bill wherein we correct the problems of our current budget process and provide a mechanism whereby we actually can get to balance, and if we do not, puts our fingerprints and the President's fingerprints all over it so that there is real accountability to the people for why we have not or will not balance the budget.

Without that accountability, with these changes, I fear that we will continue to play the kinds of political games that I have seen both in the last 2 years of my time in Congress and fore that, which is one of the dirty factors that made me stand up and shout to the people in my district, "We can and must do better."

It is possible to balance the Federal budget. It is not possible to do so with smoke and mirrors. It is not possible to do so simply with processed legislative reform. The only way we balance the budget is by either cutting spending, increasing revenues, and those are tough choices. But that is what we were elected to do, to make the tough choices, to allocate those scarce resources among the priorities. Our problem is we are providing our people with more Government services than they are willing to pay for.

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We cannot continue to do that. We would urge bipartisan consideration of this approach. This approach has been developed with ideas from past decades and current ideas. It has been developed with ideas from both sides of the aisle. It has been developed through bipartisan effort, and I urge bipartisan consideration.

Now, we are going to be using three different approaches to try to bring this budget reform to a vote. First, through stand-alone legislation filed here today we will attempt to cosponsor it. We will attempt to get it through the committee process. We will attempt to get a vote on the floor of the House to adopt this package.

Second, there is another alternative. We will this year have a budget reconciliation package. That package from the President and the leadership of the House will include the President's economic plan. It will include spending cuts. It will include revenue increases. It must include budget process and budget enforcement provisions.

We will be pushing within the reconciliation package to adopt this or similar budget reform legislation.

Finally, currently under order of the House and the Senate, a joint committee of this Congress is meeting to consider process reform whereby we would change the way this body and the other House perform the Nation's business. Part of that process reform must be

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CONGRESSIONAL RECORD—HOUSE

February 24, 1993

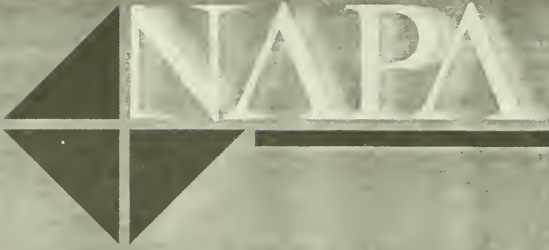
budget process reform and we will be submitting this proposal to the Committee on Reform of the Congress and ask them to consider these changes as a recommendation of reform to the full body.

By using these three separate avenues, we the sponsors of this bill hope to get a real honest bipartisan consideration of this legislation.

I urge you to support it. This is an accountability provision. We are losing credibility and have lost much credibility with the people at home. The voters wonder whether or not we have the fortitude to gradually make the tough decisions. With this accountability bill, with this truth in budgeting bill, I believe we are provided with the mechanisms to do so.

I would urge my colleagues, look at this bill. Consider this bill. If you have ideas for changing it to make it better, let us make it better, but let us pass it, because as the President said, the worse thing we can do is nothing at all. We must revise the system and I urge you to do so.

With that, Mr. Speaker, I yield back the balance of my time.



COPING WITH CATASTROPHES

Building an Emergency Management System
to Meet Changing Needs in
Natural and Manmade Disasters



NATIONAL ACADEMY OF
PUBLIC ADMINISTRATION

For The
U.S. Congress and Federal Emergency Management Agency

CONCLUSIONS AND RECOMMENDATIONS

The federal emergency management function and FEMA are overseen by too many congressional committees, none of which has either the interest or a comprehensive overview to assure that coherent federal policy is developed and implemented. A preoccupation with constituent interests, while laudable in times great need following disasters, makes it very difficult to achieve a balance between cost and service.

There also is a need to shift from an preoccupation with shortcomings in the federal response to support for improved management of FEMA and emergency management programs. FEMA or a successor agency needs a more coherent legislative charter, greater funding flexibility and sustained support for the institutional infrastructure described in the previous chapter.

Recommendations to the Executive Branch

Draft a new legislative charter, building on existing authorities in the Stafford Act, and formally transmit it to Congress as soon as possible to enable action in the 103rd Congress.

Incorporate in the draft charter (1) language to reduce FEMA's presidential appointee positions to two, the director and deputy director (excluding the inspector general), and (2) any authority required by the President to make needed organizational changes.

Recommendations to Congress

Enact legislation that will (1) provide a comprehensive emergency management charter through amendments to the Stafford Act to encompass emergencies and disasters of all types other than those administered outside the current body of laws applying to FEMA and (2) reduce to two FEMA's presidential appointee positions.

Designate a single committee in each house of Congress with jurisdiction over "emergency management" and the laws applying to FEMA. The Joint Committee on the Organization of Congress should give this matter priority attention.

Designate a single committee in the Senate to confirm all FEMA appointees nominated by the President and requiring confirmation.

Remove some of the funding restrictions on FEMA's programs, including the earmarking of funds for specific projects, commensurate with initiatives taken and planned by FEMA, to build a high-performance, high-reliability institution for emergency management.



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